

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
vs.) Criminal Action
RAFAEL LEONER-AGUIRRE,) No. 15-10338-FDS
Defendant)
)
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)
)

BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

JURY TRIAL DAY 7

TESTIMONY ONLY

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

November 15, 2017
9:00 a.m.

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Official Court Reporters
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Boston, MA 02210
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7 For the Defendant:

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CHRISTIAN HENRIQUEZ, RESUMED

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By Mr. Halpern
By Mr. Pasricha

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BRIAN ESTEVEZ

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By Mr. Pasricha

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EXHIBITS

FOR I.D. IN EVIDENCE

12

40, 45, 47, 55, 60, 76, 78, 112 through

77

13

117, 119, 124, 133 through 139, 148

14

through 152, 158, 199 through 202, 205,

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210 through 216, 218, 240 to 242, 247,

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254, and 256

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1 TESTIMONY ONLY

2 THE CLERK: All rise for the jury.

3 (JURORS ENTERED THE COURTROOM.)

4 THE CLERK: Thank you. You can be seated. Court is
5 now back in session.

6 THE COURT: Do you understand that you're still under
7 oath?

8 THE WITNESS: Yes.

9 THE COURT: And the same for you, madam interpreter?

09:03AM 10 THE INTERPRETER: Yes, sir.

11 THE COURT: Okay. Mr. Halpern, whenever you're ready.

12 MR. HALPERN: Thank you.

13 CHRISTIAN HENRIQUEZ, RESUMED

14 CROSS-EXAMINATION, CONTINUED

15 BY MR. HALPERN:

16 Q. Good morning. Yesterday you remembered that it was in the
17 beginning of 2012 to '13 school year after meeting Cuervo that
18 you decided to join the Enfermos?

19 A. Yes.

09:03AM 20 Q. All right. So during that first school year, you were
21 meeting regularly with Cuervo and Roca and Chucky about your
22 clique business?

23 A. Yes.

24 Q. And in the business, the most important part of the
25 business was to kill your rivals and increase your turf?

1 A. Yes.

2 Q. Now, you and Cuervo lived almost next door to each other?

3 A. Yes.

4 Q. And you'd walk home from school together frequently?

5 A. Yes, in the afternoons, when we'd return.

6 Q. Were you trying to learn English in school?

7 A. Yes.

8 Q. And was this the first time that you were really working
9 and trying to learn English?

09:04AM 10 A. Yes.

11 Q. You were trying to pass your classes?

12 A. Yes.

13 Q. And you had an ongoing immigration case at that time,
14 right?

15 A. Yes.

16 Q. In fact, all of you had ongoing immigration cases, didn't
17 you?

18 A. I don't know that.

19 Q. Do you know that -- how many of them, of your friends in
09:05AM 20 the group do you know had ongoing immigration cases?

21 MR. PASCRICHA: Objection.

22 THE COURT: There's no foundation here, so sustained.

23 Q. Did you know whether or not other -- of the four of you,
24 whether others also had pending immigration cases?

25 MR. PASCRICHA: Objection.

1 THE COURT: I'll allow it as to -- it asks for a yes
2 or no. I'll allow that.

3 A. Yes.

4 Q. And do you know which guys?

5 A. Roca.

6 Q. All right. And you knew that it was important for that
7 case that you stay out of trouble?

8 A. Yes.

9 Q. You knew that getting a criminal case could get in the way
09:06AM 10 of your immigration?

11 A. Yes.

12 Q. And you did homework, didn't you?

13 A. Yes.

14 Q. After school, did you usually go to either your house or
15 Cuervo's house?

16 A. Not to Cuervo's house, to Roca's house.

17 Q. Okay. And was it usually either that you'd go back to
18 your house or you'd go to Roca's house?

19 A. To Roca's house.

09:07AM 20 Q. Was part of the reason that you'd pick Roca's house,
21 because his parents weren't around?

22 A. Yes, and he would invite us to his house to eat.

23 Q. All right.

24 THE INTERPRETER: I'm sorry, translator made a
25 mistake, not to eat, but to smoke.

1 Q. That was going to be my next question. So frequently
2 after school, you'd smoke marijuana and relax?

3 A. Yes.

4 Q. All right. And you had been getting high regularly since
5 you were 13?

6 A. Yes.

7 Q. And when you got high, did that make feel like you were
8 more ready to go outside and find someone to kill?

9 A. Just the opposite, because when you're high, you don't
09:08AM 10 know what you're doing and you're not conscious, so you're just
11 going to go out to lose.

12 Q. So when you would get high, you typically just hung around
13 wherever you happened to be?

14 A. Yes.

15 Q. All right. After you got to Chelsea, did you meet girls
16 that you became friendly with?

17 A. Yes.

18 Q. And after school, did you sometimes invite girls over to
19 hang out with you and get high?

09:09AM 20 A. Yes.

21 Q. Did you end up having a girlfriend during your first year?

22 A. Yes.

23 Q. All right. And television, did you find that that was
24 better here than it was back home in the Honduras?

25 A. I don't understand the question.

1 Q. Did you watch television?

2 A. Do you mean if I watched television with them or by
3 myself?

4 Q. Both. I mean, was watching TV something you liked to do
5 once you got to Chelsea?

6 A. Of course, I watched TV.

7 Q. Sure. And did you have an Xbox or a Nintendo system at
8 your place?

9 A. Yes, I had an Xbox.

09:10AM 10 Q. And you did that a lot every day, too, didn't you, with
11 your buddies, hang around and play games?

12 A. No, I had an Xbox at my house, and when I was bored, I
13 used it, but Roca also had a Playstation, and we would play
14 that at his house when we were drugged.

15 Q. So on a typical day, right, when you weren't getting high,
16 hanging out with your friends, watching TV, playing video games
17 and doing the things that most high school kids do, how much of
18 your time were you spending expanding your turf?

19 A. You don't spend all your time thinking about that, you
09:12AM 20 have a social life, you have to spend time with your girlfriend
21 and with your family.

22 Q. Would you go out at night with your friends to see if you
23 could find somebody to kill as part of your routine?

24 A. Yes, sometimes.

25 Q. But that first school year went by and it just so happened

1 that you didn't find anybody?

2 A. We did find, but sometimes it just wasn't the right moment
3 to attack them because there were people around or there were
4 cameras.

5 Q. It was never the right moment, right, because you never
6 killed anybody?

7 A. Well, there was a time where, in fact, we chased them, but
8 it didn't work out.

9 Q. You did, though, have lots of meetings in which the four
09:13AM 10 of you talked about how much you wanted to kill somebody and
11 expand your turf, right?

12 A. Yes.

13 Q. So would you say that during that first school year, your
14 Enfermos group had meetings once a week or so?

15 A. Sometimes we would meet during the week, not only for
16 meetings.

17 Q. Oh, sometimes you'd just meet and get high or hang out
18 with girls or play games and things like that?

19 A. Yes.

09:14AM 20 Q. Right, but about once a week would you say that that's a
21 fair estimate? Your meetings would be about your clique?

22 A. Yes, after we started speaking with Tremendo, then we
23 started having meetings about the clique.

24 Q. Well, before -- I think you testified that long before
25 Tremendo arrived, you were regularly having meetings about the

1 clique; isn't that true?

2 MR. PASCRICHA: Objection. It misstates the
3 testimony.

4 THE COURT: Sustained.

5 Q. Prior to the time that Tremendo arrived, were you
6 regularly having meetings with your friends about the clique?

7 A. Yes.

8 Q. All right. So my question, just roughly, would you say
9 you met with your friends -- let's focus on the first year of
09:16AM 10 high school for you, right? Would you agree that during that
11 first year of high school, you met with your friends about
12 clique business roughly about once a week?

13 A. Yeah, we were planning to create the clique, but we had to
14 recruit more people to be in the clique. Just the four of us
15 couldn't go out to war.

16 Q. Well, you agreed when you joined up and increased the
17 group from three or four that you were signing up to kill
18 people, right?

19 A. Yes.

09:17AM 20 Q. So did that really mean that you were signing up to kill
21 people when your group got big enough to really pose a threat
22 to the 100 or so 18th Street kids?

23 A. Yes, of course.

24 Q. During that first school year, at some of your meetings
25 with your friends, did you talk about planning murders?

1 A. Yes, but we didn't have very much experience.

2 Q. You talked about how you could expand your turf?

3 A. Yes.

4 Q. Now, you weren't involved in dealing drugs?

5 A. No.

6 Q. And you weren't involved in extortion?

7 A. We weren't doing any of that yet.

8 Q. Right. So by expanding your turf, at that point the main
9 thing you really wanted was to be able to walk around Chelsea
09:19AM 10 without getting beat up?

11 A. Yes.

12 Q. And would you say that before Tremendo arrived, you guys
13 must have had 50 meetings or more about clique stuff?

14 A. I didn't count them. I don't know.

15 Q. Well, you had a year and a half from the time you joined
16 up until the time he arrived, so over a year and a half, would
17 you say that you probably had at least 50 clique meetings?

18 A. Like I said before, we didn't meet only for that.

19 Q. I understand that, but we're talking about a year and a
09:20AM 20 half. Do you think you probably had 50 or more meetings during
21 that time?

22 MR. PASCRICHA: Objection. Asked and answered.

23 THE COURT: I'll allow it one more time, but, yes, you
24 may answer.

25 A. Probably, but I don't know. Like I said, I didn't count

1 them.

2 Q. Okay. Now, back in April of 2015, that's when you first
3 met with law enforcement after finding out about a plan to kill
4 you?

5 A. Yes.

6 Q. And very quickly after that, in late April of 2015, you
7 testified before a grand jury under oath. Do you remember
8 that?

9 A. Yes.

09:21AM 10 Q. And then you testified before a grand jury two more times,
11 once just like a week later in May, and then in December,
12 again, at the end of 2015, so a total of three times?

13 A. In total, it was three times.

14 Q. Okay. So I want to ask you about some testimony from the
15 first time in April of 2015. You were asked a question:

16 "So, how long before Tremendo arrived did Roca start
17 getting the Enfermos together?"

18 MR. PASCRICHA: Objection. Your Honor, may we
19 approach sidebar?

09:22AM 20 MR. HALPERN: I'm sorry, page -- I didn't give you the
21 page.

22 THE COURT: Give him the page.

23 MR. HALPERN: 63.

24 (THE FOLLOWING OCCURRED AT SIDEBAR:)

25 THE COURT: What's the objection?

1 MR. PASCRICHA: Your Honor, I'm very concerned about
2 this process. He can't be leading the witness when there's
3 nothing to bring it in. I don't want to keep objecting. It
4 will seem as if we're hiding something, but there's no
5 impeachment foundation. Counsel can't just start reading, well
6 you were asked this question, did you give this answer.

7 THE COURT: Well, is this going to be a prior
8 inconsistent statement?

9 MR. HALPERN: Yes.

09:23AM 10 THE COURT: Okay. So I'm assuming he's laying a
11 foundation for the prior inconsistent statements. If it's not,
12 I'm going to strike the whole thing.

13 MR. HALPERN: I want going to ask if he said
14 so-and-so.

15 THE COURT: Okay.

16 (SIDEBAR CONFERENCE WAS CONCLUDED)

17 THE COURT: All right. Go ahead.

18 Q. All right. So, question: "So how long before Tremendo
19 arrived did Roca start getting the Enfermos together?"

09:24AM 20 Answer: "It was like months before he arrived. He
21 starting like letting us know and getting us together for about
22 a month at school."

23 Do you recall that testimony?

24 THE INTERPRETER: I'm sorry. Could you repeat the
25 answer for the interpreter?

1 Q. "It was like months before he arrived. He started like
2 letting us know and getting us together for about a month at
3 school."

4 Is that your testimony?

5 A. Yes, because around that time, we were going to officially
6 be chequenos for the clique.

7 Q. You were asked, "Did you have any meetings at that point
8 before Tremendo arrived?"

9 And your answer was, "Yes, we met one time."

10 THE INTERPRETER: I'm sorry.

11 Q. Question: "Did you have any meetings at that point before
12 Tremendo arrives?"

13 Your answer was, "Yes, we met one time and he told us
14 about this."

15 Is that your testimony?

16 A. Who told us about that?

17 Q. Roca.

18 A. I didn't understand the question though.

19 Q. Did you testify in response to the question, "Did you have
09:25AM 20 any meetings at that point before Tremendo arrived?"

21 "Yes, we met one time and he told us about this."

22 A. Yes.

23 Q. All right. Now, your second year of school, on the very
24 first day of school, so this is late August, 2013, you had a
25 problem with a couple of 18th Street kids. Do you remember

1 that?

2 A. I had many problems.

3 Q. Do you remember on that particular day two kids came up to
4 you. One of them was Culebra, Dennis Pedromo Rodriguez, the
5 other one was Edwin Melendez. Do you remember having a problem
6 with them the first day of school?

7 A. Yes.

8 Q. And you remember Culebra told you that he and his friends
9 controlled everything?

09:27AM 10 A. Yes.

11 Q. And that you could either join up with them or you'd get
12 beat up?

13 A. Yes.

14 Q. And Culebra, that's in Spanish, in English that translates
15 to "snake;" is that right?

16 A. Yes.

17 Q. And this is the same guy that many months later ends up
18 being stabbed and shot?

19 A. Yes.

09:28AM 20 Q. So to avoid them that day, you cut class?

21 A. I didn't cut class, I was with Culebra, who came to join
22 me at lunch --

23 THE INTERPRETER: I'm sorry, the interpreter is
24 confused.

25 A. Cuervo came that day to back me up, but I don't think I

1 cut school that day.

2 Q. You went to the office of the dean of students to tell
3 them about what had happened?

4 A. Yes.

5 Q. And they called the police and the police came to talk to
6 you?

7 A. I think so.

8 Q. So by this time, you had long ago taken the oath of
9 membership that you keep your mouth shut about everything
09:29AM 10 that's related to the gang, right?

11 MR. PASCARICHA: Objection.

12 THE COURT: Sustained.

13 Q. When you entered into the group, had you agreed that you
14 wouldn't talk about anything connected to your group?

15 A. Yes.

16 Q. But going to the dean's office and telling them what these
17 guys had done to you and talking to the police about it, that
18 was not a breach of that agreement, was it?

19 A. I didn't talk about my gang, and they were snitching on
09:30AM 20 us. It was part of the strategy.

21 Q. A couple weeks later, you actually did get beat up, right?

22 A. They beat me up many times. I don't recall.

23 Q. Do you recall a couple of weeks later specifically
24 Pedromo Rodriguez and another guy started a fight with you?

25 A. And where was that?

1 Q. Do you remember getting into a fight with him in the
2 beginning of the school year?

3 A. It was many times that we confronted each other.

4 Q. Did one of those fights end up creating a court case?

5 A. I don't remember.

6 MR. HALPERN: I want to show him a document or have
7 the interpreter read a document to see if it refreshes his
8 recollection.

9 THE COURT: All right.

09:32AM 10 MR. PASCRICHA: I'm sorry.

11 Q. This is from a police report. I want to ask if this
12 refreshes your recollection about a particular problem you had
13 with them.

14 A. Okay.

15 THE COURT: Hold on, you can't read it out loud if
16 you're refreshing his recollection. She's going to have to
17 translate it for him off the record.

18 Q. Does that help your memory in terms of getting into some
19 particular problem with him and another guy in September?

09:33AM 20 A. Well, as I told you before, I had many problems with him
21 and with the other one named Edwin Melendez.

22 Q. There was one occasion when you and Roca got caught by a
23 swimming pool behind the high school in the beginning of that
24 year and got beat up by a big group of 18th Street kids?

25 A. It was under the bridge. I do recall that.

1 Q. And this was long before Tremendo arrived, right?

2 A. Yes.

3 Q. And talking to the police didn't help. They just kept
4 beating you up, right?

5 A. Well, I did it, because my father was obliging me to do
6 that, and he was not aware of what I was involved in.

7 Q. When you say you did it because of your father, you talked
8 to the police because your father was encouraging you to try to
9 get help, right?

09:35AM 10 A. Yes, he didn't know what I was involved in.

11 Q. All right. But you did what he asked you to do and you
12 did talk to the police?

13 A. Yes.

14 Q. And you kept getting beat up anyway?

15 A. Yes.

16 Q. And this wasn't just happening to you, it was happening to
17 all four of you all the time?

18 A. Yes.

19 Q. And you talked about how sick of it you were and you
09:36AM 20 wanted to get even and you wanted it to stop?

21 A. Of course.

22 Q. And then in April of 2014, there was another incident
23 involving Culebra that you talked about when Hector gets
24 stabbed in the wrist?

25 A. Yes.

1 Q. These two kids were hiding, as you and Cuervo were walking
2 home from school, and then they jumped you with knives?

3 A. Yes.

4 Q. And Pedromo Rodriguez was the one that went after you,
5 right?

6 A. I don't know. They were both wearing masks. It was only
7 afterwards that I found out which it was.

8 Q. And you pulled down the guy that was after you, didn't you
9 pull down his mask so that you could see his face and you
09:38AM 10 recognized that it was Culebra?

11 A. Well, yeah, when he knocked me down to the ground, I was
12 kicking his face.

13 Q. And you saw who it was?

14 A. Yes.

15 Q. All right. And he tried to stab you, but your backpack
16 blocked the knife, is that what happened?

17 A. Yes.

18 Q. And then when you fell to the ground, he was kicking at
19 you, right, your head and your face?

09:38AM 20 A. Yes, I was covering, and, yes.

21 Q. So at that point on the ground, you were more or less
22 helpless?

23 A. Well, I was trying to defend myself.

24 Q. Right. But he didn't stab you?

25 A. No, I think that one of the times that I kicked him, he

1 dropped the knife.

2 Q. Now, if several MS-13 members see an 18th Street member by
3 themselves, what's going to happen?

4 A. Attack him, kill him. If they're armed, attack him.

5 Q. Well, if there's nobody else around, you'll kill them,
6 right?

7 A. Yes, if you're in a place where no one will see you and
8 there are no cameras.

9 Q. Well, you've been in places like that a number of times,
09:40AM 10 haven't you?

11 A. What do you mean, "places like that"?

12 Q. For example, there was a stop under the Tobin Bridge where
13 you found out you could surprise 18th Street guys walking?

14 A. Yes.

15 Q. And, in fact, it was you that discovered this, and you
16 told the other guys about it, right?

17 A. Yes, but which bridge are you talking about, the one
18 behind the pool?

19 Q. Was there more than one bridge where you found you were
09:41AM 20 able to surprise 18th Street kids?

21 A. I don't know the name of the street, but there was another
22 bridge.

23 Q. All right. But also under the Tobin?

24 A. Which is the Tobin? I'm not sure which one.

25 Q. The big one.

1 A. The one that goes by the school?

2 Q. The big bridge that connects Chelsea to Boston.

3 A. Oh, okay. Now I understand.

4 Q. And there was an area underneath that bridge where you
5 discovered you could sometimes find 18th Street kids walking by
6 themselves?

7 A. Yes.

8 Q. All right. And you and your friends would try to go after
9 them if you could find them alone, or if you could outnumber
09:42AM 10 them?

11 A. Yes.

12 Q. And you'd beat them up?

13 A. Yes.

14 Q. And it was a place that was dark?

15 A. Yes.

16 Q. There weren't people around?

17 A. During the day, people did walk by.

18 Q. Right, but you were usually doing this at night.

19 A. I would go when it was in the afternoons, and it wasn't
09:43AM 20 every day.

21 Q. No. But you didn't try to kill anybody, did you?

22 A. Of course, I did.

23 Q. You did. Did you stab people?

24 A. No.

25 Q. No. Did you have a knife?

1 A. Yes.

2 Q. But you just decided not to use it?

3 A. Of course, but when they see you with a knife, the first
4 thing they do is run, and I'm not going to follow them all the
5 way to Broadway.

6 Q. Were there kids that you were able to jump and get on the
7 ground?

8 A. There were guys that I attacked, but I didn't always have
9 a knife when I attacked them.

09:44AM 10 Q. In addition to your mother, what other family members did
11 you leave behind in Honduras?

12 A. My sister, my brother, and my mother's side of the family.

13 Q. Do you have more than one brother?

14 A. One brother and one sister.

15 Q. And part of your arrangement with the government is that
16 they will help your relatives in Honduras?

17 A. Yes.

18 Q. To help move them to the United States and help them set
19 up new lives here?

09:45AM 20 A. Yes.

21 Q. How many people has the government gotten involved in
22 moving from the Honduras to the United States for you?

23 A. Three people.

24 Q. And your mother, your sister, and who else?

25 A. My grandfather.

1 Q. And is there anybody else that you are hoping that they'll
2 move?

3 MR. PASCRICHA: Objection. Your Honor, may we be
4 heard on this point?

5 THE COURT: All right.

6 (THE FOLLOWING OCCURRED AT SIDEBAR:)

7 MR. PASCRICHA: Your Honor, we're just a little bit
8 concerned about asking about family members for witness
9 security reasons, who else we may be moving, who else exactly
09:46AM 10 is still living there. I wanted to state that objection.

11 If there's a promise that's been made, he can inquire
12 about that. I think there's a fine line, but I just wanted,
13 for the witness' sake, to make an objection on the record as to
14 who else still lives there and who he's hoping to be able to
15 get out of there.

16 MR. HALPERN: I'm not going to ask him for names.

17 THE COURT: All right. Why don't --

18 MR. PASCRICHA: I just wanted to raise the concern.

19 THE COURT: I'll allow a generalized question to other
09:47AM 20 family members that you hope.

21 (SIDEBAR CONFERENCE WAS CONCLUDED)

22 Q. Are there other -- I need a minute. Sorry.

23 THE COURT: Do you need to take a recess, Mr. Halpern?

24 MR. HALPERN: My back just spasmed.

25 THE COURT: Why don't we take a recess.

1 THE CLERK: All rise.

2 (A recess was taken.)

3 THE CLERK: All rise. Thank you. You may be seated.

4 We're now back in session.

5 THE COURT: Mr. Halpern, are you ready to go?

6 MR. HALPERN: Thank you.

7 Q. So I don't want you to tell me who these people are or how
8 they're related to you. Are there other relatives in the
9 Honduras that you are hoping the government is going to bring
10:01AM 10 to the United States?

11 A. Yes.

12 Q. All right. How many?

13 A. One.

14 Q. Okay. And the government is not only bringing these
15 people to the United States, they're helping support them
16 financially once they get here, right?

17 A. Yes.

18 Q. And are you aware that between housing and living
19 expenses, helping you, helping family members set up places to
10:02AM 20 live, that so far about \$250,000 has been spent to assist you
21 and your family?

22 A. Up until now that you said it, I did not know.

23 Q. The financial help is still going on, right?

24 A. Yes.

25 Q. And no one from the government has told you when the

1 financial assistance is going to end, have they?

2 A. Yes.

3 Q. And do you understand that if you had told prosecutors
4 that you really didn't know very much about the things that
5 they were interested in, they would not be so ready to help you
6 and your family?

7 MR. PASCRICHA: Objection.

8 THE COURT: It's certainly argumentative. Sustained.

9 Q. You understand that they're not helping you because they
10:03AM 10 feel sorry for you?

11 MR. PASCRICHA: Objection.

12 THE COURT: It's argumentative, but I'll allow it.

13 Overruled.

14 THE INTERPRETER: Could you repeat the question,
15 please?

16 Q. You understand that the government isn't helping you
17 because they feel sorry for you?

18 A. No, they told me all we want you to do is tell the truth.
19 It doesn't matter whether it helps us or harms us.

20 Q. Do you think they'd be providing all this assistance if
21 the truth harmed them?

22 A. I don't know.

23 Q. You testified yesterday that the first meeting that was
24 held after Tremendo came was three days after he arrived?

25 A. Yes.

1 Q. Do you have a clear memory of that?

2 A. I recall that we saw each other after three days.

3 Q. So I want to ask you about some testimony from the
4 April grand jury appearance, page 74.

5 Question: "Did Tremendo call a meeting when he
6 arrived?"

7 Answer: "Yes."

8 "Do you remember whether it was the same day he
9 arrived?"

10:05AM 10 Answer: "Yes, the same day."

11 Is that your testimony?

12 A. I don't remember. That was many days ago.

13 Q. You don't remember whether that was your testimony or you
14 don't remember whether the first meeting was when he arrived
15 the first day or whether it was three days later?

16 A. What I know is that when he arrived, we had a meeting. I
17 don't know if it was the first day or the second day.

18 Q. Or the third day?

19 A. Or the third day.

10:06AM 20 Q. He told you that you'd need to pay \$10 a week to the
21 clique?

22 A. Yes, not pay, but gather money for the small box.

23 Q. \$10 a week?

24 A. First, \$10.

25 Q. And after that initial meeting, whenever it was, you had

1 more meetings, right?

2 A. Yes.

3 Q. And this was when he received messages from El Salvador?

4 A. Yes.

5 Q. Right. And that's something you had told law enforcement
6 from the very beginning that he held meetings when he received
7 messages from El Salvador, right?

8 A. Yes.

9 Q. And you knew that because he was telling you that he had
10:08AM 10 been talking to El Salvador about the four of you?

11 A. Yes.

12 Q. Right. So MS-13 leadership in El Salvador seemed to be
13 very interested in your little group, right?

14 A. Yes.

15 Q. So, at this first meeting, if everybody is going to pay
16 \$10 a week, and by this time, if you add Rafael and Gallito and
17 Bravo who would come with him, that's \$90 a week, right?

18 A. Yes.

19 Q. And some of that was supposed to go to El Salvador?

20 A. Well, we would give the money, and when they would say
21 they needed help with something, then the money would be given
22 to them. Not all the time.

23 Q. So, how much of your \$90 did you think was going to
24 El Salvador?

25 A. I don't know, because I didn't keep the accounts.

1 Q. But at some point, El Salvador called Tremendo and
2 complained that you guys were not sending enough money?

3 A. I don't remember.

4 Q. I want to go back to your grand jury testimony from April,
5 page 84. "Were you having meetings with the gang?"

6 Answer: -- I'm sorry, I missed a line, I will start over.

7 "After the first meeting, how often, more or less,
8 were you meeting, were you meeting with the gang?"

10:11AM 10 Answer: "I don't know. That would happen whenever he

1 Q. So would you say probably a few weeks went by between the
2 time he arrived and the time that he told you El Salvador was
3 angry and wanted more money?

4 A. It could be, yes.

5 Q. And then after that, there were more meetings in which
6 Rafael told you again that he'd heard from El Salvador and that
7 they felt like you guys needed to do better and send more
8 money?

9 A. Yes.

10:13AM 10 Q. Would you say roughly every couple of weeks you would get
11 that message from Tremendo that he'd heard from El Salvador and
12 they were upset because you guys weren't sending enough money?

13 A. Yes, because sometimes we didn't give all the money.

14 Q. And would you say you probably heard this at least four or
15 five times that El Salvador was annoyed about the money?

16 A. Yes.

17 Q. This went on for months, didn't it?

18 A. Yes.

19 Q. You talked about one conversation that was done over
10:14AM 20 Tango. Do you remember?

21 A. Yes.

22 Q. And that was the meeting that was about the graffiti,
23 right?

24 A. Yes.

25 Q. And before that meeting, you had spoken to Tremendo a

1 number of other times, right?

2 A. Yes.

3 Q. And I think you testified yesterday that there were a
4 bunch of calls before that Tango meeting when you spoke to
5 Tremendo on speaker phone?

6 A. Those were not by Tango but by speaker phone.

7 Q. Yes, that's what I meant. There was only one Tango
8 meeting, right?

9 A. Yes, that one was to punish Chucky and Cuervo.

10:15AM 10 Q. Right. But there was one meeting where you used this
11 Tango app so that you could actually see each other, right?

12 A. Yes.

13 Q. All right. So I'm talking about before that. There were
14 a number of telephone calls without Tango in which you guys
15 were able to talk to Rafael?

16 A. Yes.

17 Q. And there were also a number of calls, I think you
18 testified, that you were able to talk to him individually on
19 the phone?

10:16AM 20 A. Yes.

21 Q. So, let me ask you. Are you just as certain about all of
22 those telephone calls taking place as you are about everything
23 else that you've had to say about Rafael?

24 MR. PASCRICHA: Objection.

25 THE COURT: Sustained.

1 Q. You're certain that these calls took place?

2 A. Yes.

3 Q. Okay. So these calls, they must have happened after the
4 meeting when Roca told you that Tremendo was coming?

5 A. Yes.

6 Q. So these were made during the month or so before he
7 arrived?

8 A. More or less, yes.

9 Q. Now, the Tango meeting lasted about one hour?

10:18AM 10 A. Yes.

11 Q. I want to read some of your testimony from April of 2015
12 about the meeting. What did he tell you?

13 MR. PASCRICHA: Your Honor, I'll object. I don't know
14 the page numbers. I'm not sure there's a question to the
15 witness.

16 MR. HALPERN: There will definitely be a question.

17 THE COURT: Well, give him the page number.

18 MR. HALPERN: Page 72.

19 Q. You talked about the graffiti issue in this meeting,
10:19AM 20 right?

21 A. Yes.

22 Q. What else did you talk about?

23 A. I don't remember.

24 Q. So, page 72, "What else did he talk about?"

25 "Nothing, just normal conversation. He asked us about

1 how we were doing, the stuff about the graffiti and, again,
2 that things would change when he got here. And when he'd get
3 here, he was going to get the clique going."

4 Do you recall that?

5 A. Yes.

6 Q. Then you were asked, "This is the first time you've met
7 Tremendo, correct?"

8 Your answer was "Yes."

9 Do you remember that?

10:20AM 10 A. Yes.

11 Q. And then you were asked, "So did you go around the room
12 introducing yourselves to him?"

13 The answer was, "Yes."

14 Do you remember that?

15 A. Yes.

16 Q. Then you were asked, "Did you talk with him a little bit
17 about who you were, where you were from, and that sort of
18 thing?"

19 A. Yes.

10:20AM 20 Q. And your answer was, "Yeah, we would say stuff like that,
21 like I'm so-and-so, and I come from, you know, such-and-such
22 place, such-and-such country, et cetera." That was your
23 testimony?

24 A. Yes, that was the first time we saw each other on camera
25 and we had a more formal meeting.

1 Q. So you had all these other phone calls with him before
2 that meeting, but you just didn't introduce yourself?

3 A. We had introduced ourselves, but except that he didn't
4 know whose face went with which name, like he just knew that
5 there was a Clacker, a Chucky, a Roca, but he didn't know which
6 face went with.

7 Q. You remember that in this Tango meeting, Cuervo and Chucky
8 got beaten for 13 seconds because of the graffiti?

9 A. Yes.

10:22AM 10 Q. Because leadership in El Salvador had found out about the
11 graffiti, and they were angry?

12 A. Yes.

13 Q. And the leaders in El Salvador had ordered Tremendo to
14 punish these guys?

15 A. Yes.

16 Q. And during this Tango call, Tremendo was in Michigan?

17 A. Yes.

18 Q. And he told you that the leaders in El Salvador were
19 angry?

10:23AM 20 A. Yes.

21 Q. And he counted this countdown slow to make sure these guys
22 got a good beating?

23 A. Yes, it's normally -- it's called out slowly.

24 Q. Cuervo was a good friend of yours?

25 A. Of course.

1 Q. And you beat him up?

2 A. Yes.

3 Q. Upsetting for you to do that?

4 A. I was indifferent because he made the mistake.

5 Q. So, before this happened, before this meeting, someone in
6 Chelsea must have contacted El Salvador and let them know that
7 a couple of guys in Chelsea had put graffiti up; is that right?

8 A. Yes.

9 Q. Or maybe somebody sent an e-mail to Bunker who was in
10:24AM 10 prison in El Salvador and told him about the graffiti?

11 A. I don't know, I just know that they found out. I don't
12 know how they found out.

13 Q. So, when this meeting is going on and Rafael says that
14 Cuervo and Chucky need to get beat up, you guys must have said
15 to each other how did the big bosses in El Salvador find out
16 about the graffiti at the high school?

17 A. He has a phone in jail.

18 Q. Bunker?

19 A. Yes.

10:25AM 20 Q. But you must have wondered who it was in Chelsea that
21 called him up on his phone in El Salvador and told him about
22 the graffiti at the high school?

23 A. Of course, I asked myself that.

24 Q. After Tremendo came to Chelsea, at one of the meetings he
25 arranged a phone call with Bunker?

1 A. Yes.

2 Q. And during this phone call, Bunker told you that it was
3 against the rules to put up graffiti with the name of the
4 clique?

5 A. Yes.

6 Q. And Bunker told you about this rule before Chucky and
7 Cuervo got beaten up?

8 A. No, after. They already knew it, but I don't know why
9 they did it. You can't go around writing the clique's name.

10:27AM 10 Q. I want to read you from grand jury testimony of May, 2015.
11 This is concerning the conversation with Bunker.

12 THE COURT: Page.

13 MR. HALPERN: Page 61.

14 Q. "Did he say anything else about what you needed to do or
15 what you should do?"

16 "Yes, he said we couldn't go around painting walls
17 with the name of the clique."

18 "Okay. Was it your understanding that was because of
19 the earlier incident with Chucky and Cuervo?"

10:28AM 20 Your answer was, "No, that hadn't happened yet."

21 Is that your testimony?

22 MR. PASCRICHA: Objection. It misstates the
23 testimony, your Honor. I ask for a sidebar.

24 MR. HALPERN: I will clear it up.

25 THE COURT: You have to read it verbatim. Are you

1 not reading it verbatim?

2 MR. HALPERN: I'm reading it verbatim, I'm going to
3 have to read more. I'm taking it a step at a time.

4 Q. Was that your testimony? "No, that hadn't happened yet"?

5 A. Yes, that was my testimony, but I made a mistake because
6 Tremendo was already here, and that had been my previous -- and
7 that was my testimony before.

8 Q. All right. So, after you made the mistake, the prosecutor
9 said, well, when you testified previously, you said that Chucky
10:29AM 10 and Cuervo were beaten at a meeting before Tremendo arrived,
11 and Tremendo was expected --

12 THE INTERPRETER: I'm sorry, what was the second part
13 of the question?

14 MR. HALPERN: And Tremendo was expected.

15 THE INTERPRETER: Was expected?

16 MR. HALPERN: Expected, like expected to come.

17 A. Yes, we gave them the beating before he arrived.

18 Q. And the prosecutor then asked you, page 63, "So, did that
19 happen before you met Bunker or after?"

10:30AM 20 And you answered, "After."

21 Right?

22 A. What happened later, the punishment?

23 Q. The beating. You're asked, now, a second time, "Did that
24 happen before you met Bunker or after?" And your answer for a
25 second time was, "After."

1 A. Like I said before, I made a mistake.

2 Q. You made a mistake twice?

3 A. Yes.

4 THE COURT: One at a time, one at a time. Slow down.

5 A. Yes, I made a mistake.

6 Q. And then the prosecutor tried to fix it again, and you
7 were asked, "Okay. So, earlier you testified that I
8 believe --"

9 And you interrupted and your answer was, "Oh, no.

10:31AM 10 That was before."

11 Right?

12 A. Yes.

13 Q. So eventually you fixed it?

14 A. Yes.

15 Q. Okay. Was Tremendo physically in the apartment when the
16 beating of Chucky and Cuervo took place?

17 A. He was in his apartment where he lived in Michigan.

18 Q. In Michigan, right. But when you were asked that
19 question, page 64, May, 2015, question: "Was Tremendo present
10:32AM 20 physically in the apartment when the beating took place of
21 Chucky and Cuervo?"

22 Your answer was, "Yes, he was in the apartment. He
23 seemed to have casual clothes on."

24 Was that your testimony?

25 A. Yes, I said he was in the apartment.

1 Q. With casual clothes on.

2 A. Yes.

3 Q. And did you remember that because he often wore dressy
4 clothes?

5 A. No, no, I meant normal clothes to just be in the house.

6 Q. You saw part of the fight that led to Tremendo's arrest?

7 A. I was there.

8 Q. And before the fight happened, you heard Tremendo say he
9 wanted to beat up the 18th Street guy who had stabbed Cuervo?

10:34AM 10 A. Him or anyone else that we found in the street.

11 Q. But what he said was that he wanted to beat them up?

12 A. We both know that he didn't want to give him a beating but
13 that he wanted to kill them.

14 Q. You were asked in April 2015 concerning this incident,
15 page 102, "What happened?"

16 "He shot one of the 18th Street guys. He was mad
17 because Cuervo had gotten cut. An 18th Street guy was walking
18 on Broadway. Tremendo wanted to beat him up."

19 THE INTERPRETER: I'm sorry, what was the last part?

10:36AM 20 Q. "Tremendo wanted to beat him up." Was that your
21 testimony?

22 A. Yes.

23 Q. Nothing about his saying he wanted to kill anybody. Did
24 you testify that you heard him say he wanted to kill somebody?

25 A. Yes.

1 Q. You testified that he said he wanted to beat somebody up,
2 wasn't that what you said?

3 A. We wanted to do the killing, so, of course, we were going
4 to beat him up and then kill him. I know that he's not the
5 type who will just go and beat somebody up. He comes from
6 El Salvador where --

7 MR. HALPERN: Move to strike.

8 THE COURT: It will be struck, the jury will disregard
9 that answer. Put another question to the witness.

10:37AM 10 Q. The first weapon you saw was the guy who had a chain?

11 A. Excuse me.

12 Q. At the fight. We're talking about the fight when Tremendo
13 is arrested.

14 A. Yes.

15 Q. The first weapon that you saw anyone use in that fight was
16 the guy who had the chain?

17 A. If we're talking about weapons, that wasn't the weapon.
18 That was just a chain that you hang your wallet from. That
19 wasn't the weapon.

10:38AM 20 Q. Did you see him try to hit Tremendo in the head with it?

21 A. Yes.

22 Q. It got him in the neck?

23 A. Yes, I saw that he hit him.

24 Q. One of the guys that was involved in that fight was named
25 Javier Servellon?

1 A. Yes.

2 Q. And he had been part of the group of guys that had tried
3 to beat you up before?

4 A. Yes.

5 Q. And you explained yesterday that you hid when this -- when
6 you guys first see these two kids walking on the street, you
7 hid, so they wouldn't see you?

8 A. Yes.

9 Q. And that was because you thought they'd recognize you as
10:39AM 10 part of your clique?

11 A. Yes, and that they would run away if they recognized us.

12 Q. But you didn't think they'd recognize Rafael?

13 A. No.

14 Q. Because he hadn't been on the streets with you guys very
15 often?

16 A. Not because he hadn't gotten out but because he was new in
17 that area.

18 Q. And the 18th Street kids had no particular reason to know
19 who he was?

10:39AM 20 A. They didn't know him.

21 Q. After the shooting, the police spoke to you; is that
22 right?

23 A. Yes.

24 Q. And you told them that you didn't know any of the guys
25 involved?

1 A. Yes.

2 Q. You told them that you didn't see anything?

3 A. That's correct.

4 Q. And that you had heard a shot and run away?

5 A. That's correct.

6 Q. All right. And you did not testify at the trial that took
7 place?

8 A. Which trial? Do you mean the trial here when I started
9 testifying because I was only called to interrogate me by the
10:41AM 10 police on that occasion.

11 Q. On that occasion. I'm talking about the shooting
12 incident. You know that there was a trial?

13 A. No.

14 Q. All right. You didn't testify at any trial concerning
15 that incident?

16 A. Until I got here when I started speaking with the police.

17 Q. Okay. The only trial you've ever testified in is this
18 trial, right?

19 A. Yes.

10:42AM 20 Q. You said yesterday that after Rafael was arrested, the
21 group gave some money to Vicky for him?

22 A. Yes.

23 Q. That happened once?

24 A. Yes.

25 Q. Did you learn that Rafael didn't take the money?

1 MR. PASCRICHA: Objection.

2 THE COURT: Sustained.

3 Q. Did you learn what happened to that money?

4 A. We just gave it to Vicky. I don't know what happened.

5 Q. Did she tell you what happened?

6 A. No, I didn't ask her. I just had received orders, and I
7 carried them out.

8 Q. All right. So how much money did you give?

9 A. I personally gave about \$50. I don't know what the others
10:43AM 10 gave.

11 Q. One time?

12 A. Yes.

13 Q. You testified yesterday that Rafael remained the leader
14 after he was in jail, right?

15 A. Yes.

16 Q. You testified in April, page 117, this was a long question
17 about Cilindro. And just to remind everybody, Cilindro and
18 Villano are the same guy, right?

19 A. Yes.

10:44AM 20 Q. And his real name is David Lopez?

21 A. Yes.

22 Q. Okay. And you testified now that Tremendo was in jail,
23 he, Cilindro, is the one that's in charge of the group?

24 A. Yes.

25 Q. Is that your testimony?

1 A. Yes.

2 Q. And in May, before the grand jury, page 25, you were
3 asked, "If the first word is in prison, then the second word is
4 in charge?"

5 And your answer was, "Yes. The second palabrero
6 that's in the street takes the command"?

7 A. Yes.

8 Q. That was your testimony?

9 A. Yes.

10:45AM 10 Q. During the time that Tremendo was in Chelsea, you didn't
11 get to know him very well, did you?

12 A. I only knew him during the time that I spent with him.

13 Q. He had a girlfriend he spent a lot of time with?

14 A. They lived together.

15 Q. He had a job painting for Cuervo's father?

16 A. Yes.

17 Q. He was not someone that you would just call up and say,
18 hey, let's go out?

19 A. That's an interesting, curious thing, because a palabrero
10:46AM 20 usually only gives orders, and the others carry them out, or
21 sometimes he also will.

22 Q. But when you say -- the palabrero has a different status
23 than the rest of you guys?

24 A. Yes.

25 Q. And you were -- in terms of status, you were at the bottom

1 of this group, weren't you?

2 A. Yes.

3 Q. You had been the last to join?

4 A. We were all almost at the same time.

5 Q. Your experiences with 18th Street mostly involved people
6 beating you up?

7 A. Yes.

8 Q. There were occasions when you were with others in your
9 group, like under the bridge where you had people outnumbered
10:48AM 10 that you were involved in beating up other people?

11 A. Yes.

12 Q. But usually you were the one that was getting beat up?

13 A. I had the advantage of being short.

14 Q. The disadvantage.

15 A. You could call it that, and that would be true.

16 Q. You had never used a knife on anybody?

17 A. Yes, I did.

18 Q. You stabbed an 18th Street kid before Tremendo arrived?

19 A. No. I almost did at school, but --

10:48AM 20 Q. You had never stabbed anybody, had you?

21 A. No.

22 Q. You never tried to kill anyone?

23 A. I did try, but I'm not stupid, I know where I can do
24 things.

25 Q. You testified about the machete incident that Rafael told

1 you about?

2 A. Yes.

3 Q. And you just happened to be going to his house?

4 A. Yes.

5 Q. Just after he returned home that day?

6 THE INTERPRETER: Excuse me.

7 Q. Just after he returned home.

8 A. Yes.

9 Q. What day of the week was it?

10:49AM 10 A. I don't remember what day it was.

11 Q. What time was it?

12 A. Around noon or in the afternoon.

13 Q. You went by yourself?

14 A. I think I was with Bravo.

15 Q. You testified about this a number of times. Did you ever
16 mention being with Bravo before?

17 A. I don't remember. I think so.

18 Q. Page 120, April. Question: "Where did you see him?"

19 "At his home after that had happened."

10:51AM 20 Question: "Did you have a conversation?"

21 "Yes."

22 "Was anybody else present?"

23 "The woman, Vicky."

24 Is that your testimony?

25 A. Yes.

1 Q. There was no meeting planned that day?

2 A. I was going to his house.

3 Q. There was no meeting planned?

4 A. No, not for meeting, not that I can recall.

5 Q. So you just knocked on his door and he let you in?

6 A. I was going to meet with him, but it wasn't a meeting with
7 the others.

8 Q. And the only other person in the apartment was Vicky?

9 A. Yes.

10:52AM 10 Q. And Tremendo talks to you about what happened?

11 A. Yes.

12 Q. And he says to you that after he hit the guy with the
13 machete, he walked back to the house as though nothing had
14 happened?

15 A. Yes.

16 Q. That's what he said, right?

17 A. That's what he said.

18 Q. And those were the same words you testified about at grand
19 jury proceedings?

10:53AM 20 A. Yes.

21 Q. So he says to you "I hit him with the machete and then I
22 walked back to my house as though nothing had happened"?

23 A. He said that to me.

24 Q. Right. You testified about seeing the machete at Rafael's
25 apartment?

1 A. Yes.

2 Q. Under a table?

3 A. Maybe under a table. I don't remember.

4 Q. Where was the table?

5 A. In the kitchen.

6 Q. Is that where you saw it?

7 A. There I was with him in the kitchen.

8 Q. Is that where you saw the machete, under the table in the
9 kitchen?

10:54AM 10 A. I don't remember.

11 Q. Yesterday, I thought you remembered.

12 MR. PASCRICHA: Objection. He didn't testify to this
13 yesterday.

14 MR. HALPERN: Well, I'll move on. It doesn't matter.

15 Q. You testified at the grand jury that you saw the machete
16 in a closet in his bedroom?

17 A. Yes, but days before, not the day of the event. I had
18 previously seen the machete, either in the closet or under
19 something.

10:55AM 20 Q. I think you did testify, whether it was yesterday or the
21 first day of your testimony, that you had seen it under a
22 table. Do you remember that?

23 A. Yes.

24 Q. Did he show you the inside of his closet also?

25 A. He always kept the closet open.

1 Q. Now, you mentioned yesterday that there was a woman who
2 lived in the apartment?

3 A. Yes.

4 Q. It was her apartment?

5 A. Yes.

6 Q. He was renting a room in her apartment?

7 A. Yes.

8 Q. This wasn't a situation where the woman owned the house
9 and he was renting a floor of the house, that's not what this
10:56AM 10 was?

11 A. I said it was a three-story building.

12 Q. Right. She shared a kitchen with him and Vicky?

13 A. Yes.

14 Q. She shared a bathroom with him and Vicky?

15 A. That's right.

16 Q. She shared everything with him and Vicky other than their
17 bedroom?

18 A. Yes.

19 Q. She rented him a room in her apartment?

10:56AM 20 A. That's correct.

21 Q. And she had a little girl, didn't she?

22 A. Yes.

23 Q. Like about three years old?

24 A. Something like that.

25 Q. Too young to be in school?

1 A. I don't remember. I just remember she was small or young.

2 Q. And she lived in the apartment with her mother?

3 A. She lived alone with a child.

4 Q. And so at all these meetings that your clique was having
5 at Tremendo's place, where was this woman and her daughter?

6 A. She -- what she did is that she worked, and I don't know
7 if her mother looked after the girl or somebody else. And she
8 didn't care, she would see us smoking in the back in the porch,
9 and she didn't mind, she would smoke, too. She would lock
10:58AM 10 herself in her room, and she knew that we were there, and she
11 didn't care because she knew Cilindro from before.

12 Q. So she was okay with a machete being under the table in
13 the kitchen?

14 A. Like I said, she didn't spend time there, and it was when
15 she wasn't around that we could spend time in the kitchen. Of
16 course, if she had seen a machete, the first thing that she
17 would do would be to kick us out.

18 Q. You were at this apartment for a meeting the day that
19 Rafael arrived or within a few days of when he arrived, right?

10:59AM 20 A. Yes.

21 Q. You were at his apartment when you saw a machete?

22 A. Yes.

23 Q. You were at his apartment the day the machete fight
24 happened?

25 A. Yes.

1 Q. You were at his apartment the day Bunker talked about the
2 graffiti?

3 A. Yes.

4 Q. I think you testified yesterday that you had seen Rafael
5 with a gun one time. Was that also at his apartment?

6 A. Yes.

7 Q. Do you have a clear memory of that?

8 A. Yes.

9 Q. Tell me about it.

11:00AM 10 A. I had seen him with a gun not only in the apartment but
11 also outside.

12 Q. Did you testify yesterday that you had seen him with a gun
13 once?

14 A. Yes, when he pulled it out, it was only once.

15 Q. You were asked yesterday, "Prior to the day of the
16 shooting, had you ever seen him with a gun?"

17 And you said, "Once."

18 A. Okay, I said that.

19 Q. Well, is that true?

11:01AM 20 A. I don't remember. Like I said, it's been a long time.

21 Q. So, you're not sure if you had ever seen him with a gun?

22 MR. PASCRICHA: Your Honor, I'll object.

23 THE COURT: Overruled.

24 A. Of course, I saw him with a gun. It was a .38.

25 Q. I'm not talking about the day of the shooting. You saw

1 him shoot somebody, right?

2 A. Yes.

3 Q. I'm not talking about that. I'm talking about before that
4 day. You testified yesterday that before that day, you had
5 seen him with a gun once. Do you remember that testimony?

6 A. Yes, I had seen him with a gun one time at his house. In
7 fact, he told me that he had bought the gun from Villano.

8 Q. I just want you to answer my question. Do you remember
9 testifying yesterday that prior to April 16th, you had seen him
11:02AM 10 one time with a gun?

11 MR. PASCRICHA: Your Honor, objection. It misstates
12 the testimony. I'd ask to be heard at sidebar, please.

13 THE COURT: All right. Why don't we take a break.
14 Then when we get back, we'll see if we can go through to one
15 o'clock. All right. Let me see counsel at sidebar.

16 (JURORS EXITED THE COURTROOM.)

17 (THE FOLLOWING OCCURRED AT SIDEBAR:)

18 MR. PASCRICHA: He was asked, what I was saying
19 clearly, he saw one gun, not just one, and he testified about
11:03AM 20 the gun and where the gun was bought from. I think it's
21 confusing and misleading to suggest he said he had only seen
22 him once. I believe the line of questioning was in
23 furtherance.

24 MR. HALPERN: Let me try to find it.

25 THE COURT: Let's try to find it. If you're going to

1 confront him with testimony, it has to be pretty close to it,
2 and, of course, you can redirect.

3 MR. PASCRICHA: Yes.

4 THE COURT: Thank you.

5 (SIDEBAR CONFERENCE WAS CONCLUDED)

6 (A recess was taken.)

7 (Resumed, 11:21 a.m.)

8 THE COURT: Counsel, you wanted to see me?

9 MR. PASRICHCHA: Just to finish the sidebar, your Honor,
11:21AM 10 we generally object to the way the questions are being asked,
11 but the other issue I wanted to raise with you, I believe your
12 Honor instructed the jury prior to trial that there is no
13 transcript and that there won't be a transcript.

14 THE COURT: Right.

15 MR. PASRICHCHA: If counsel starts quoting from a
16 transcript of this trial, I just wanted to raise -- I don't
17 know what --

18 THE COURT: I don't think I said there won't be a
19 transcript because that wasn't true. I said they will not have
11:22AM 20 a transcript.

21 MR. PASRICHCHA: I just wanted to clarify. I just don't
22 know what the jury is thinking when we have transcripts and
23 they don't.

24 THE COURT: And I have a live feed, and they can
25 probably tell that as well. The point I wanted to make is,

1 they're not going to have a transcript when they go back and
2 they need to pay attention. And, again, if you're going to
3 confront someone with prior testimony, it needs to be what the
4 person said or, you know, a fair paraphrasing of it.

5 MR. HALPERN: I can show it.

6 THE COURT: So why don't you ask the question again.

7 (Jury enters the courtroom.)

11:23AM 10 THE COURT: Mr. Halpern.

11 BY MR. HALPERN:

12 Q. You were asked yesterday, had you seen Tremendo with a gun
13 on other occasions, and your answer was "Yes, once before." Do
14 you recall that testimony?

15 A. Yes.

16 Q. And is that the truth, that you remember seeing him one
17 time prior to the day of the shooting, one time previously with
18 a gun?

19 A. Yes, it's possible, but, like I said, I don't remember. I
20 did see him once before with a gun.

21 Q. No more than once?

22 A. As I said, I don't remember.

23 Q. Do the Enfermos have other groups in the country other
24 than your friends here in Chelsea?

25 A. I found out, according to what I understand, in New Jersey

1 there are more than what I had been told.

2 Q. New Jersey? Other places?

3 A. In California.

4 Q. In other states?

5 A. Only those.

6 Q. Hundreds of members?

7 A. Do you mean of the clique?

8 Q. Of the Enfermos.

9 A. Or the whole gang?

11:26AM 10 Q. You testified, if I understood you correctly, that Rafael
11 was the boss of the Enfermos throughout the entire United
12 States?

13 A. Of the clique.

14 Q. Of the clique involving you and your three friends in
15 Chelsea?

16 A. In Chelsea, here in Boston, he was the boss of the clique.

17 Q. So when you were asked, he was the boss in the United
18 States, you really meant in Chelsea?

19 A. Yes.

11:27AM 20 Q. Yesterday, right before we took a break, the prosecutor
21 asked you about what Chucky had told you concerning a gunshot
22 that killed a woman. Do you remember that?

23 A. Yes.

24 MR. HALPERN: I just need a second.

25 (Pause.)

1 Q. Before the break, I believe you testified that Cuervo and
2 Chucky were running. This is what Chucky told you. The East
3 Sides were behind them, and Cuervo fired the gun behind him?
4 Is that right?

5 A. Yes.

6 Q. And then we took a break, and when we came back, you were
7 asked, "Did Chucky tell you who they had been trying to shoot
8 at?" Do you remember that question?

9 A. Yes.

11:29AM 10 Q. Now, you hadn't actually testified that Chucky had told
11 you that they were trying to shoot at anybody, correct?

12 A. Yes.

13 Q. And you may remember that you actually never answered that
14 second question because I objected to it. Do you remember
15 that?

16 A. Yes.

17 Q. But when you heard that question, you realized that you
18 were supposed to add something about Cuervo shooting at a
19 person?

11:29AM 20 MR. PASRICA: Objection.

21 THE COURT: I'll allow it.

22 A. I didn't understand the question.

23 Q. When we came back from the break and you were asked, "Did
24 Chucky tell you who they had been trying to shoot at," you
25 realized that there was something else the prosecutor wanted

1 you to say?

2 A. No. I said what Chucky said to me.

3 Q. He said that they shot behind them?

4 A. He said that they were running and he fired.

5 Q. Into the air?

6 A. He just said that he fired towards the back and that he
7 didn't notice they had fired at a woman.

8 Q. You met with law enforcement in April of 2015, right?

9 A. Yes.

11:31AM 10 Q. And they asked you about this incident, right?

11 A. Yes.

12 Q. And you told them that Chucky and Cuervo were on the
13 street when some East Side guys came after them?

14 A. Yes.

15 Q. And at that point Chucky and Cuervo started to run away?

16 A. The East Side caught them off guard.

17 Q. And they wanted to escape from the East Side guys, right?

18 A. What he said was that it was a lot of East Sides, and so
19 they reacted and started running and shooting.

11:33AM 20 Q. You told the prosecutor and the police that Chucky had
21 told you that Cuervo pointed his gun in the air behind him,
22 didn't you?

23 MR. PASRICHA: Objection.

24 THE COURT: That seems to be compound. You told --
25 put a time frame and a precise --

1 Q. When you met with law enforcement for the first time in
2 April of 2015, you told them what Chucky had told you about the
3 shooting?

4 A. Yes.

5 Q. Did you tell them that one of the things Chucky had said
6 was that Cuervo shot his gun into the air?

7 A. They fired towards the back like that.

8 (Witness indicating.)

9 Q. They fired towards the East Side guys that were behind
11:34AM 10 them?

11 A. I don't know. What he told me was that they fired behind
12 them.

13 Q. Did he tell you that they had fired -- that Cuervo had
14 fired because he was trying to scare these guys off?

15 A. To shoot at them and -- they had gone out to look for
16 rivals.

17 Q. Yes, you said that yesterday, that Chucky and Cuervo were
18 walking around looking for rivals to kill?

19 A. Yes.

11:35AM 20 Q. Just like they'd been doing since when you started ninth
21 grade over three years earlier?

22 A. Yes, but they had started doing it more often because
23 Chucky felt very powerful when he had the gun, and prior to
24 that, we didn't have a gun.

25 Q. For three years, over three years, right? This shooting

1 was in October of 2015, right?

2 THE INTERPRETER: What year? I'm sorry.

3 MR. HALPERN: Did I misspeak? I said 2015. Sorry.

4 Q. October of 2014?

5 A. Yes.

6 Q. So by this time, all of you had been looking for rivals to
7 kill for over three years?

8 A. Yes.

9 Q. And just like you, Cuervo had never killed anyone?

11:36AM 10 A. Yes.

11 Q. In the winter of 2014 going into 2015, you were involved
12 in a fight that was near the El Charrito Restaurant in Chelsea?

13 THE INTERPRETER: I'm sorry. The name of the
14 restaurant?

15 MR. HALPERN: El C-h-a-r-r-i-t-o.

16 A. Yes.

17 Q. What happened that night?

18 A. It wasn't at night. It was in the afternoon.

19 Q. And can you just briefly describe what happened.

11:37AM 20 A. That day specifically we went out looking for 18s, and by
21 chance we found two in front of the restaurant. We started to
22 attack them and to hit them.

23 Q. You got them on the ground?

24 A. Yes.

25 MR. HALPERN: I'm sorry. Was he done?

1 THE INTERPRETER: No.

2 A. When we went to stab them, we didn't realize the police
3 was behind us, and we started running because they were coming
4 after us.

5 Q. So this was a kid that you got on the ground, and you
6 punched and you kicked him for a while?

7 A. Yes.

8 Q. You had a knife?

9 A. Yes.

11:38AM 10 Q. And the guys you were with had knives?

11 A. Yes.

12 Q. And no one used any knife?

13 A. When we were just knocking him down and we were about to
14 stab him, like I said, we saw behind us, and in fact we ran
15 with the knife in our hand.

16 Q. But when you got him on the ground, you didn't use the
17 knives?

18 A. No, because at that moment we heard the police.

19 Q. At that moment while you were kicking him?

11:39AM 20 A. Yes. It was all very quick.

21 Q. While you were part of the Chelsea group, you were
22 involved frequently in crime that had nothing to do with the
23 group?

24 A. Yes.

25 Q. In 2014, 2015, one of the things that you became

1 interested in was robbing gypsy cabdrivers?

2 A. Yes.

3 Q. You did that with different people?

4 A. Yes.

5 Q. Most of these drivers you knew were undocumented?

6 A. I didn't know if they were undocumented. I know they
7 didn't work directly with companies.

8 Q. Well, wasn't one of the reasons you targeted these guys
9 was because you thought most of them would be undocumented so
11:41AM 10 they'd be reluctant to go to the police?

11 A. Not because they were undocumented but because they were
12 unassigned taxis. I know that even if you're undocumented, you
13 can press charges. Because they were gypsy cabs, they couldn't
14 make -- they couldn't press charges.

15 Q. Okay. And you often used either a knife or a fake gun?

16 A. Yes.

17 Q. You did more than forty of these robberies?

18 A. Forty robberies? I don't know if it was forty, but they
19 were all the same.

11:42AM 20 Q. December, 2015, Page 70: "About how many of these did you
21 do in that period?" The answer is, "A lot. More than thirty,
22 maybe forty."

23 Is that your testimony?

24 A. Yes.

25 Q. And on a good night, you might make \$2,000?

1 A. \$2,000?

2 Q. On a good night?

3 A. No.

4 Q. Page 68: "How much would you typically get a night?

5 Answer: If it was a good night, \$1,800, something like that."

6 A. Okay, but I didn't say \$2,000.

7 Q. I exaggerated. You'd split the money with whoever did the
8 robberies with you?

9 A. Yes.

11:44AM 10 Q. And in addition to cash, you stole their phones?

11 A. Yes.

12 Q. And Cilindro was the leader when you were doing this?

13 A. He was in charge.

14 Q. And you didn't want him to find out about it?

15 A. No.

16 Q. Because this was your own thing; you were freelancing
17 outside the clique?

18 A. Yes.

19 Q. And you did the same thing with robberies of restaurant
11:44AM 20 delivery guys?

21 A. The same robberies.

22 Q. You testified about, I believe it was Daniel Menjivar, who
23 was the first person that told you about a plan to kill you?

24 A. Yes.

25 Q. Roca?

1 A. Yes.

2 Q. And he was your friend, wasn't he?

3 A. Supposedly.

4 Q. And he told you about this about a month before you met
5 with the prosecutors?

6 A. I think so.

7 Q. Did you believe him?

8 A. Well, I was surprised, but I didn't believe him that much.
9 Like, I believed him and I didn't believe him.

11:46AM 10 Q. Did you act on what he said?

11 A. I started inquiring.

12 Q. And did you try to avoid the people that Roca told you
13 were dangerous?

14 A. Yes.

15 Q. How did you do that?

16 A. I stopped going out to hang out with them because they
17 kept calling me all the time to go out to smoke with them.

18 Q. So as a result of what Roca told you, you kind of went
19 into hiding?

11:47AM 20 A. It's possible. I stayed away. I wanted to find out if it
21 was true.

22 Q. But in the meantime, you changed the way you were living
23 your life day to day, didn't you?

24 A. Yes.

25 Q. Because you thought that Roca was trying to save your

1 life?

2 A. I didn't think he was trying to save my life. I knew that
3 he wasn't going to kill me because he had an electronic
4 bracelet on his foot, and he's not stupid, and he had been
5 given the order and he had to do it.

6 Q. Well, when Roca told you that there was a plan to kill
7 you, you certainly didn't think that he was part of the plan,
8 did you?

9 A. What he told me was that he had been sent to kill me.

11:49AM 10 Q. Okay. And so he was giving you a warning that he had been
11 given an order?

12 A. Yes, and he told me so that I would leave.

13 Q. So that --

14 A. I would leave.

15 Q. So you would leave, okay. And then later you heard
16 something similar from Pelon?

17 A. Yes.

18 Q. And you took that seriously because Pelon was a homeboy?

19 A. Yes.

11:49AM 20 Q. And you knew Pelon's last name was Martinez?

21 A. No.

22 Q. Did you know his name?

23 A. I only knew him by Pelon.

24 Q. Now, you know that over the course of this investigation,
25 law enforcement referred to you as CW-2?

1 A. No.

2 Q. No? Did you know that Pelon also was working as an
3 informant?

4 A. In fact, I was surprised because I only found that out
5 this weekend.

6 Q. You found out that Pelon was CW-1?

7 A. No.

8 Q. Did you find out that Pelon had learned about the plan to
9 kill you as a result of his work as an informant?

11:51AM 10 A. No, I don't know. I didn't know.

11 Q. But, in any event, you have learned recently that he was
12 in fact an informant?

13 A. I found out this past weekend.

14 Q. All right. And he reached out to you about a month after
15 Roca did and told you to get out of town?

16 A. He told me to leave because I had been given a green
17 light, and that it was for real and I would be killed because
18 they believed that I was talking to the police, even though it
19 wasn't so.

11:52AM 20 Q. And at that point you decided it was time to talk to law
21 enforcement?

22 A. Of course. What was the point of continuing to avoid it
23 if what they wanted was to kill me?

24 Q. So you met with prosecutors and agents?

25 A. Well, they had already come to my house. In fact, I had

1 already told them "no," that I wanted nothing to do with them.

2 Q. Right, but once you heard from Pelon, you changed your
3 mind?

4 A. Yes.

5 Q. All right. So you met with them, I think it was April 21
6 of 2015?

7 A. Yes, I think so.

8 Q. And at that point you want to tell them everything you
9 know that could help them protect you?

11:53AM 10 A. Well, they told me that they could help me if I told the
11 truth and only the truth.

12 Q. Excuse me. I'm not asking about what they told you, all
13 right, so I just want you to try to listen to my question. At
14 the point that you met with them, you wanted to tell them
15 everything you could that would help them protect you?

16 A. I was going to tell them everything that I knew so that
17 they could help me.

18 Q. Right. And it was not in your interest at that point to
19 hide anything?

11:54AM 20 A. No.

21 Q. Okay. Now, Roca had told you that the order to kill you
22 had come from Crazy?

23 A. No. That Crazy had requested the order to have me killed.

24 MR. HALPERN: Can I have a second.

25 (Discussion off the record between attorneys.)

1 MR. HALPERN: I am missing a document, so I'm trying
2 to find it, if I can have a second. I got it. Sorry.

3 Q. Did you tell law enforcement that Roca had told you that
4 Big Crazy had said to him that you had snitched on his little
5 brother, Little Crazy, and on Tremendo?

6 A. Yes.

7 Q. And did you tell law enforcement that Roca said that Big
8 Crazy gave the order to kill you?

9 A. Because first he had to request the order from the clique,
11:57AM 10 and then after he got the order from the clique, then he could
11 order it.

12 Q. You didn't explain any of that to law enforcement when you
13 met with them on April 21, did you?

14 A. I think I did.

15 Q. I want to read you from a report --

16 MR. PASRICHA: Objection.

17 THE COURT: I'm not going to permit that. Sustained.

18 Q. I want to show you a document and ask if it refreshes your
19 recollection about what you told agents and prosecutors. It's
11:57AM 20 that sentence.

21 (Document read to the witness by the
22 Interpreter.)

23 Q. Does reading that refresh your recollection that what you
24 told law enforcement was that Roca said that Big Crazy gave the
25 order to kill you?

1 A. Yes. Can I respond?

2 Q. "Yes" was a good response.

3 A. But I wanted to answer about who the order was about.

4 Q. I didn't ask that question. You didn't tell them any more
5 information about anybody else being involved in giving that
6 order?

7 A. I believe I did in fact because days later, after he told
8 me that I was going to be killed, I met with him, and he told
9 me that Tremendo did give the order to kill me because he had
11:59AM 10 listened to recordings saying that I had talked to the police.

11 Q. Which you never mentioned to law enforcement?

12 A. In fact I did.

13 Q. You met with law enforcement on April 21, and you told
14 them that Tremendo was involved in the plan to kill you?

15 A. Yes. I told them that Tremendo had given the green light.

16 Q. Do you remember which prosecutors were there at that
17 meeting on April 21?

18 A. The prosecutor who was asking the questions?

19 Q. This was a big meeting, wasn't it?

12:01PM 20 A. Yes, but I don't know if you're referring to when I came
21 to testify in court or before.

22 Q. No, before, the meeting on April 21.

23 A. That was with Peter.

24 Q. Peter Levitt?

25 A. Yes.

1 Q. Who's the prosecutor. There also were several agents
2 there, right?

3 A. Yes.

4 Q. And in fact Ms. Huacuja, the Interpreter, was there too?

5 A. Yes.

6 Q. And your testimony is that on that day when you met with
7 the government, you told all these people that Tremendo was
8 involved in the order to kill you?

9 THE INTERPRETER: I'm sorry. Could you repeat the
12:02PM 10 question for the Interpreter.

11 MR. HALPERN: Yes.

12 Q. Your testimony is that on that day, April 21, when you met
13 with all these people, you told them that Tremendo was involved
14 in the order to kill you?

15 A. I believe so, but if it wasn't on that day, it was on a
16 different day because I did say it.

17 Q. Little Crazy's real name is Jose Vasquez?

18 A. Yes.

19 Q. And you know that he had gotten into a fight involving a
12:03PM 20 kid from your group, Angel Pineda, Bravo, and an 18th Street
21 kid named Jose Zuniga?

22 A. Yes.

23 Q. And Zuniga had been stabbed?

24 A. Yes.

25 Q. And Little Crazy and Bravo had been charged in that case

1 shortly before the time that you learned about the plan to kill
2 you?

3 A. Yes.

4 Q. Little Crazy was arrested?

5 A. I think so.

6 Q. He ended up pleading guilty?

7 A. I don't know.

8 Q. You do know that all of this happened right around the
9 same time that you were meeting with prosecutors?

12:04PM 10 A. I didn't find out about anything that was happening with
11 the defendant.

12 Q. Well, you knew that the case against Little Crazy was
13 going on, didn't you?

14 A. Yes, but what I found out later was that Little Crazy
15 thought that I was snitching on him in that case.

16 Q. That Little Crazy thought so?

17 THE INTERPRETER: I'm sorry?

18 Q. That Little Crazy thought so?

19 A. Yes.

12:05PM 20 Q. And had told his brother?

21 A. Yes.

22 Q. And his brother was the leader of a clique?

23 A. Yes.

24 Q. Which clique was Big Crazy the leader of?

25 A. Everett.

1 Q. That's one of the larger or the largest clique?

2 A. One of the largest cliques.

3 MR. HALPERN: That's all I have.

4 THE COURT: Redirect?

5 SIDE BAR CONFERENCE:

6 MR. PASRICHCHA: I have a few pages of testimony I'd
7 like to introduce as prior consistent statements. I've
8 redacted it to exclude everything that was not previously and
9 expressly discussed. I just haven't had a chance to share them
12:06PM 10 to counsel.

11 MR. HALPERN: I need to get my glasses.

12 MR. PASRICHCHA: The entirety of this page.

13 THE COURT: All right, and are you planning to
14 introduce these as prior consistent statements?

15 MR. PASRICHCHA: Correct, under 801(d)(1)(B).

16 MR. HALPERN: I don't see what is inconsistent here.

17 THE COURT: It's consistent, he says. What was the
18 inconsistency that this is responding to, Mr. Pasricha?

19 MR. PASRICHCHA: He was just impeached on his
12:08PM 20 credibility. It goes to that under (d)(1)(B).

21 THE COURT: I understand the rule. I'm just saying, a
22 prior consistent statement is admissible to rebut an
23 implication of recent fabrication, and so what are we rebutting
24 here?

25 MR. HALPERN: This is exactly what he said.

1 MR. PASRICHA: Rebutting the implication that our
2 agents told him to do that.

3 THE COURT: That agents told him to do what?

4 MR. PASRICHA: That law enforcement suggested to him,
5 you know, the answers he should give. This is two and a half
6 years ago before he had any evidence of -- I think we're
7 allowed to ask him, you know, "At the time you gave these
8 statements, did you know or have proof supporting your claim to
9 the government? Back then, did you still make the following
12:08PM 10 statements?"

11 MR. HALPERN: Well, first of all, these three pages do
12 not contain, as far as I can see, a single word that is
13 different than what he said during my questioning or during
14 your initial questioning. There's no -- I mean, I don't get
15 what this is about. He's talking about contributing money.
16 That's exactly what he said when I questioned him.

17 THE COURT: Right, right, and maybe \$10 per week.

18 MR. HALPERN: There's nothing different. This is
19 exactly what he said. That's where I got it from. This is
12:09PM 20 exactly what he said when I asked him. There's nothing
21 inconsistent here.

22 THE COURT: Well, consistent with, in other words --

23 MR. HALPERN: This isn't a prior consistent statement
24 because there never was an inconsistent statement. This is the
25 same thing he said all along.

1 THE COURT: I agree with that. And then the third
2 thing?

3 MR. PASRICHA: There were questions about, "You never
4 said --"

5 MR. HALPERN: There's nothing inconsistent here
6 either.

7 THE COURT: Hold on. That you never said anything
8 about what?

9 MR. PASRICHA: That "You never let anyone know that
12:10PM 10 Tremendo was involved?" These are direct questions about, "You
11 never let anyone know Tremendo was involved." In April of
12 2015, two and a half years ago he mentions that "I have
13 information. Of which people? Tremendo."

14 THE COURT: Okay, this is the last name? Okay. "They
15 thought that I had snitched on Tremendo." In other words, it's
16 not Tremendo giving the order.

17 MR. HALPERN: No, no, no. I had made it very clear
18 every time I read this statement that he was told that there
19 was suspicion that he had snitched on Little Crazy and
12:10PM 20 Tremendo. That's not the issue. The issue is whether Tremendo
21 gave the order. And it, frankly, wouldn't matter if it did say
22 that. The issue is what he said when he met with law
23 enforcement on the 21st. Now, if this said what he just
24 testified to, which is that "On April 21 I told law enforcement
25 that Tremendo had given the order," fine. That's not what it

1 says.

2 THE COURT: Unless I'm missing something, I don't see
3 anything here that qualifies as a prior consistent statement,
4 given the context, so --

5 (End of sidebar conference.)

6 THE COURT: Thank you for your patience, ladies and
7 gentlemen. Go ahead, Mr. Pasricha.

8 REDIRECT EXAMINATION BY MR. PASRICHCHA:

9 Q. Good morning. Good afternoon. You testified three times
12:11PM 10 previously, correct?

11 A. Yes.

12 Q. All three were in 2015?

13 A. Yes.

14 Q. You were asked during cross-examination when you first --
15 whether you knew about Pelon's cooperation when you testified.
16 Do you remember that?

17 A. Yes.

18 Q. When you testified in April, 2015, were you aware that
19 Pelon was cooperating with law enforcement?

12:12PM 20 A. That was the person that I least would have imagined.

21 Q. When you testified in May, 2015, did you know Pelon was
22 cooperating with law enforcement?

23 A. No.

24 Q. When you testified in December, 2015, did you know Pelon
25 was cooperating with law enforcement?

1 A. No.

2 Q. When you testified on those three occasions, were you
3 aware of any recordings that may have supported your contention
4 that the Enfermos were trying to kill you?

5 A. I never imagined that. I thought it was just my word.

6 Q. In the past two and a half years, has any prosecutor or
7 law enforcement agent, other than when you came here to testify
8 this week, shown you any recording from Pelon's car?

9 A. Never.

12:13PM 10 Q. You were asked about the shooting by Cuervo that killed
11 the woman. Do you remember that?

12 A. Yes.

13 Q. Do you remember being asked about your testimony that
14 Cuervo and Chucky were out looking for rival gang members to
15 kill?

16 A. Yes.

17 Q. In the past two and a half years, has law enforcement
18 shown you any evidence to support that testimony?

19 MR. HALPERN: Objection.

12:14PM 20 THE COURT: Sustained.

21 Q. You testified about the shooting involving Tremendo. Do
22 you remember that?

23 A. Yes.

24 Q. And you were asked about your prior testimony about that
25 shooting where you testified that Tremendo shot someone who was

1 running away. Do you remember that incident?

2 A. Yes.

3 Q. Are you aware if there's any evidence supporting that
4 statement?

5 MR. HALPERN: Objection.

6 THE COURT: Sustained.

7 MR. PASRICHCHA: Nothing further.

8 THE COURT: Any recross?

9 MR. HALPERN: Nothing else.

10 12:15PM THE COURT: All right, you may step down.

11 (Witness excused.)

12 MR. PASRICHCHA: The government recalls trooper Brian
13 Estevez.

14 THE COURT: All right.

15 BRIAN ESTEVEZ

16 having been first duly sworn, was examined and testified as
17 follows:

18 MR. PASRICHCHA: Your Honor, at this time the government
19 would seek to move into evidence a number of exhibits that were
20 premarked.

21 THE COURT: All right.

22 MR. PASRICHCHA: We would move in -- and I'll treat the
23 exhibit number with a brief description -- it's Exhibit 40,
24 which is an excerpt of an April 17, 2015 recording.

25 THE COURT: Okay.

1 MR. PASRICHCHA: One moment, your Honor. Exhibit 45,
2 which is an excerpt of an April 19, 2015 recording.

3 THE COURT: All right.

4 MR. PASRICHCHA: April 47 (Sic), some photographs from
5 the April 19, 2015 recording.

6 MR. HALPERN: Exhibit 47?

7 MR. PASRICHCHA: Exhibit 47, I'm sorry. What did I say?
8 47.

9 Exhibit 5, which is an excerpt of an April 27, 2015
12:17PM 10 recording; Exhibit 60, which is an excerpt of an April 28, 2015
11 recording. Exhibit 76, that's a transcript of a YouTube video
12 that was previously introduced as Exhibit 75. Exhibit 78,
13 that's a transcript of a YouTube video previously introduced as
14 Exhibit 77. Exhibits 112 through 117. Exhibit 124 -- I missed
15 one -- Exhibit 119, Exhibits 133 through 139, Exhibits 148
16 through 152, Exhibit 158, Exhibits 199 through 202,
17 Exhibit 205, 210 through 216, and Exhibit 218, Exhibits 240
18 through 242, Exhibit 247, 254 and 256.

19 THE COURT: All right, and those are subject to the
12:19PM 20 standing objections, is that right, or some of them, Mr. Halpern?

21 MR. HALPERN: Yes. Could I have one second?

22 THE COURT: Yes.

23 (Discussion off the record between attorneys.)

24 MR. HALPERN: Yes, the same continuing objections.

25 THE COURT: Okay, they're admitted: 40, 45, 47, 55,

1 60, 76, 78, 112 through 117, 119, 133 through 139, 148 through
2 152, 158, 199 through 202, 205, 210 through 216, 218, 240 to
3 242, 247, 254, and 256.

4 MR. PASRICHCHA: Thank you, your Honor.

5 THE COURT: You said 124 and then withdrew it, right,
6 so that's not part of your list?

7 MR. PASRICHCHA: No, I meant to -- if I withdrew it,
8 then -- I thought 124 was already in, your Honor. If not, I'll
9 move it in.

12:20PM 10 THE COURT: It has not been offered.

11 MR. PASRICHCHA: I'd offer 124, your Honor.

12 THE COURT: All right, that's admitted as well, 124.

13 MR. PASRICHCHA: Thank you.

14 (Exhibits 40, 45, 47, 55, 60, 76, 78, 112 through 117,
15 119, 124, 133 through 139, 148 through 152, 158, 199 through
16 202, 205, 210 through 216, 218, 240 to 242, 247, 254, and 256
17 received in evidence.)

18 THE COURT: Go ahead.

19 MR. PASRICHCHA: And, your Honor, I'd ask that the
12:21PM 20 members of the jury reach for their transcript binders.

21 Trooper, do you have a binder with you?

22 THE WITNESS: I do not.

23 (Binder passed to the witness.)

24 THE WITNESS: Thank you.

25

1 DIRECT EXAMINATION BY MR. PASRICHA:

2 Q. Trooper, I'll have you turn to Exhibit 76, please, and
3 I'll have you -- well, I'd offer for the record that this is
4 Exhibit 76 that was just introduced, which is a transcript of a
5 recording, Exhibit 75 that the jury had seen previously. At
6 the top of that page, do you see the name of the video that
7 this relates to, Trooper?

8 A. I do.

9 Q. What's the name of the video?

12:22PM 10 A. "Chavala Culero."

11 Q. And does it say below that the name of the individual who
12 uploaded that?

13 A. Yes.

14 Q. Can you read that, please.

15 A. "Tremendo ECS."

16 Q. And when was this published?

17 A. Published on May 14, 2013.

18 Q. Can I have you read the transcript of this You Tube video,
19 please.

12:22PM 20 A. "Chavala (Unintelligible) don't touch.

21 "I'm informing you that you will be beaten up by a
22 firm soldier of the (Unintelligible).

23 "This Chavala, you are fucked in every state where you
24 have been found, so don't be frightened when you get mutilated.
25 Chavala culero, 18 piece of shit. We have left you to the

1 clandestines. It is your destiny. Without nerves. First, I
2 have buried the machete in you and deformed your face. I have
3 already erased you from the map. Culero Chavala, coward culero
4 coward culero.

5 "You have to (Unintelligible) clear (Unintelligible)
6 of the chavalas culero are already fucked. You will be killed
7 here. The two big letters rule, and if you do not respect, you
8 will be in a ditch. The MS-13 net has been the bedrock for
9 this dude always, since he was a kid. I feel, with doubt for
12:24PM 10 your suffering. Fine, with a bullet to the back of your neck.
11 I will turn off the feelings, and we also destroy you with our
12 force. Anyway, this will end in the sewer. Your corpse on one
13 side or in a bag. You will never be found. Your comrades will
14 cry over you. That's your remains, for being a culero.

15 "Let this be clear, if you continue in my turf, you
16 will never get out. For being a culero, there you will remain,
17 because you are a chavala culero.

18 "Enfermos Criminales!

19 "Hey, sending a greeting to all the homies that are
12:25PM 20 around. To Bonker, to Extrano, to Sleepy, to Travieso, come
21 on, homies, yea! You know what's up, Lagarto. Hey!
22 (Unintelligible), you know what's up! To all my homies that
23 are also on the line. But yea! Come on, Lenador, come on
24 Numatico, come on Perverso, come on Violento, come on Inquieto,
25 you know what's up, yea, homie. The Big Mara Salvatrucha

1 rules, dogs!"

2 Q. Can I have you turn to Exhibit 78, please. For the
3 record, this is an English translation of a video that was
4 shown to the jury that was introduced as Exhibit 77. Do you
5 see at the top where it names the English translation of the
6 video name?

7 A. I do.

8 Q. What's the English translation?

9 A. "Reality ECS."

12:26PM 10 MR. PASRICHCHA: The record will reflect that the video
11 shown to the jury was titled "La realidad ECS."

12 Q. Just continuing on the other identifiers, who is the
13 individual listed on this translation?

14 A. Tremendo ECS.

15 Q. And is there a published date?

16 A. Published May 14, 2013.

17 Q. Can I please have you read this translation of the video
18 into the record.

19 A. "MS-13.

12:26PM 20 "Sending some verses to my homies from the lockup,
21 yea. "To Berque, to Chari, to Extrano, to Sleepy, to
22 Twister, to Travieso.

23 "To all those homies.

24 "To Serio, to Sangriento, come on homies.

25 "Also to Lagarto, for yea, who was struggling on the

1 (Unintelligible).

2 "To Violento, to Numatico, to Vengador, to Furioso, to
3 Angel, yea.

4 "Come on, dudes.

5 "Also to Perverso, homies.

6 "to all the dudes from my clique in MS-13.

7 "(Unintelligible).

8 "Come on, at once, homie. The Mara.

9 "I flee, I come.

12:27PM 10 "And as I go killing these chavalas.

11 "I leave them behind in the cells.

12 "Killing those culeros (Unintelligible) goes.

13 "(Unintelligible) Enfermos Criminales (Unintelligible).

14 "We were smoking in there.

15 "We were all (Unintelligible) those chavalas.

16 "These whores are going to be terrified when they see my
17 homies, when they realize they have run into the one that
18 knifed you and your machete (Unintelligible).

19 "You have diced all of them.

12:28PM 20 "That culero, kill him.

21 "Ha-ha-ha-ha-ha.

22 "Understand, culero, yea.

23 "Enfermos Criminales what is like this for the big
24 MS-13, yea.

25 "We flash MS-13, the chavalas that we see, we kill.

1 "Culeros, understand that we are going to kill you
2 because MS-13 has to chop.

3 "The S culera whore (Unintelligible) is dead on the
4 floor. "We have sent those in coffins to the cemetery.

5 "They are buried, their comrades cry.

6 "It is rare for (Unintelligible).

7 "We have already left them for you.

8 "Understand, you whores, sons of bitches.

9 "Understand that we wear those letters.

12:28PM 10 "That they have backed me up and never left me.

11 "The big letters that I have here on my chest
12 (Unintelligible) first, a firm soldier that has broken
13 chavalas.

14 "(Unintelligible) that brought you, broken, after I
15 cut off his tongue for being a culero. The pack of dogs
16 tolerates him, the son of bitch, this fat hag, snake woman.

17 "E-O-I-I to silence is the dilemma.

18 "Understand, sons of bitches, whores, if you want to
19 live. "Otherwise, you will be dying in the cemetery.

12:29PM 20 "Sons of bitches, yea, understand culera hags what's
21 coming to you.

22 "But go and shut up, (Unintelligible) the life of the
23 great whore, yea!

24 "(Unintelligible) also, sons of bitches, understand culero
25 shits.

1 "That we are going to grab you, one by one, and we're
2 going to kill you, yea.

3 "Enfermos Criminales, yea.

4 "Come on homie, yea.

5 "A greeting to Soni from Centrales, yea, and his
6 clique, "The Centrales Locos Salvatrucha.

7 "To all the homeboys from Centrales.

8 "A greeting also for the so-called Bilocote, to Blazer,
9 Garon.

12:30PM 10 "Come on, homeboys!

11 "A greeting also to the Frankies, yea.

12 "A greeting also to those who get jumped
13 (Unintelligible). From there, from the crystal.

14 "A greeting also especially to the clique from
15 (Unintelligible) from our area, the Directos Locos and the
16 Violentos Locos.

17 "And also a greeting for Little Maldito from the
18 Directos Locos Salvatrucha.

19 "Come on, homie (Unintelligible).

12:30PM 20 "MS-13 rules.

21 "So what's up?"

22 Q. Can I have you turn to Exhibit 44, please. Trooper, prior
23 to your testimony in this trial, did you review the transcripts
24 that you are helping read over the past few days?

25 A. Yes.

1 Q. And did you also review the videos that correspond to
2 these?

3 A. I did.

4 Q. You are a native Spanish speaker, correct?

5 A. I am.

6 MR. PASRICHA: Your Honor, I'd ask for permission to
7 show the jury Exhibit 45-1, which is a video excerpt that was
8 previously introduced.

9 THE COURT: All right.

12:31PM 10 (Video played.)

11 Q. Let me just pause there. Do you recognize the individual
12 that's in the front seat there?

13 A. I do.

14 Q. Who is that?

15 A. I know him as Bryan Barillas or a/k/a Chucky.

16 Q. And did you sit down and compare the excerpts that were
17 introduced as Exhibits 45, 50, et cetera, to make sure they
18 matched the excerpts that are being read as Exhibit 44, 49,
19 et cetera?

12:32PM 20 A. Yes.

21 Q. Okay. I'll ask the jury to turn to Exhibit 44, and that's
22 what corresponds to this video that I was just showing briefly
23 at 45?

24 A. Yes.

25 Q. I'll read into the record as we did in some prior

1 occasions parts of that testimony, and what I'll do is, I will
2 read the parts that correspond to CW-1. I'll have you read
3 everyone else. And I think there are multiple participants, so
4 to make the record clear, I'd ask that you name the participant
5 and then what they're saying.

6 A. Yes, sir.

7 Q. We'll just start at the top. "Right? Yes, because
8 they're not going to put him in something, you know?"

9 A. "Chucky: Yes. Because, look, I called him and asked him
10 12:33PM to hang out, and --"

11 Q. "Who?"

12 A. Chucky: That guy, Pesadilla."

13 Q. "I just called him. No, that guy, Pesadilla, I didn't
14 call him again because it's not, you know. Because... So how
15 are you going to, what have you planned? How are you going to
16 do the thing, man?"

17 A. "Chucky: The thing is that the son of a bitch, dude,
18 doesn't go out. That's the problem.

19 Q. "Maybe (Unintelligible) calling. I have to ask this dude
20 12:34PM what's going on. What's up, dude?"

21 A. "Violento: What?"

22 Q. I'll just turn to Page 3 to continue. Towards the middle
23 of Page 3, do you see where Chucky says, "Maybe he started
24 snitching"?

25 A. Yes.

1 Q. Can I have you read that, and then we'll continue.

2 A. "Chucky: Maybe he started snitching.

3 "Violento: Right. That's why I was telling your
4 brother to start (Unintelligible).

5 "Chucky: All right, so you told him then?"

6 Q. "That's good, so we can go fishing."

7 A. "Violento: Check right away if (Unintelligible).

8 Q. "No, no, he doesn't call me anymore."

9 A. "Chucky: No, doggie, I said to him (Unintelligible), and
10 the guy didn't answer me. He just looked at the message and
11 nothing more, dude.

12 "Violento: Well, find out (Unintelligible),
13 (Unintelligible).

14 "Chucky: Yes, and he can trick me.

15 "Violento: It's better to buy a defense and
16 (Unintelligible).

17 "Chucky: Right away."

18 Q. "That's what we're going to do. It's better like that,
19 fishing, you know."

20 A. "Chucky: Yes."

21 Q. "And explain to this dude, you know. I asked the other
22 dude whether he could bring the other dude down from up there."

23 A. "Chucky: Villano."

24 Q. "Villano, man. I'll go get him on a weekend, maybe we'll
25 catch him."

1 A. "Chucky: Right on! So you heard that, homie?

2 "Violento: Me?

3 "Chucky: This guy can go over there, where Villano
4 is, and pick him up.

5 "Violento: Alright. Just go up and get this dude.
6 Call him so that he'll be ready there, and you guys already
7 know (Unintelligible). It must be done (Unintelligible), so as
8 not to leave him (Unintelligible).

9 "Chucky: No."

12:36PM 10 Q. "No. Bullshit. How could he remain?"

11 A. "Violento: So before you leave, let us know that you're
12 on your way in case there are others who want to go.

13 "Chucky: For sure."

14 Q. "On a weekend it's fine."

15 A. "Chucky: On a weekend, doggie, like on Friday, a Friday.

16 "Violento: Are we talking about this weekend?

17 "Chucky: Possibly."

18 Q. "Possibly, doggie. If that doggie is ready, then, right
19 away."

12:36PM 20 A. "Violento: (Unintelligible)."

21 "Chucky: Alright, then."

22 Q. "And we are also going to speak to Roca. Ask him if we
23 can go to talk with Roca."

24 A. "Chucky: What about Roca, homie?

25 "Violento: What for?"

1 Q. "Well, to see if, so that he can also help us because..."

2 A. "Chucky: The thing is that the doggie has that thing on
3 his foot."

4 Q. "No, but he says that he sent a message to Roca, this guy
5 Clacker, telling him that the cops have been coming to see him,
6 you know."

7 A. "Chucky: Right."

8 Q. I'll have you turn to Page 11, please.

9 MR. PASRICHCHA: And before I have you read that,

12:37PM 10 can we have clip 45.2, please.

11 Your Honor, this has been admitted, and I'd like to
12 play a few seconds for the jury?

13 THE COURT: All right. This is another part of 45?

14 MR. PASRICHCHA: That's correct.

15 (Video played.)

16 Q. During this conversation, do you understand -- you've been
17 reading parts from Violento. Do you have an understanding as
18 to where Violento is? By that, I mean, is he in the car with
19 this group?

12:39PM 20 A. He's on the phone.

21 Q. So having reviewed the transcript and the entire video, is
22 it your understanding that CW-1 and Chucky are in the car, and
23 the person they're speaking with, that's the part that's being
24 read as Violento?

25 A. Yes.

1 Q. Page 11, the top that corresponds to this part, I'll have
2 you start with Chucky, please.

3 A. "Chucky: Yes, yes."

4 Q. "Well, I think so."

5 A. "Chucky: He'll fall for it, doggie.

6 "Violento: Yes, because we already saw it's
7 dangerous, right? We'll tell him we're going over to hang out
8 now and we'll bring other people (Unintelligible).

9 "Chucky: Yes."

12:40PM 10 Q. "And he'll get along well with Roca, so tell him to go
11 hang out at Roca's, so we should tell Roca to call him over
12 there, man."

13 A. "Chucky: Yes, that too."

14 Q. "We can go to talk with Roca about that and tell Roca to
15 try to drag him all the way up there. Because Roca lives about
16 an hour away from where we are now."

17 A. "Violento: Yes.

18 "Chucky: And that doggie could lure him out."

19 Q. "You think that doggie will lure him to come out?"

12:40PM 20 A. "Chucky: Yes."

21 Q. "We could even pay for the taxi."

22 A. "Chucky: He trusts that guy a lot, doggie. He gets along
23 really well with Roca, doggie.

24 "Violento: Who?

25 "Chucky: That guy, that fish."

1 Q. "That's what I want to see."

2 A. "Violento: But I don't understand. What is it you want
3 to do?

4 "Chucky: Have that guy lure him out, doggie, and we
5 will go there and grab him."

6 Q. Can you turn to Page 14, please. Actually, why don't we
7 start at Page 13, and we'll just start with the top of this
8 particular snippet. How does Chucky lead off?

9 A. "Chucky: The thing is that the guy has a premonition,
10 dude, and he doesn't want to go there anymore."

11 Q. "He doesn't want to go anymore?"

12 A. "Chucky: That guy by himself would have dominated. Roca
13 doesn't give a fuck about that shit."

14 Q. "So Roca was going to kill him alone?"

15 A. "Chucky: Just him. He was going to drag him out there."

16 Q. "Oh!"

17 A. "Chucky: But I didn't know that, man."

18 Q. "Why doesn't this dude trust the guy? I would have taken
19 him myself, man. When he used to call me to give him a ride to
12:41PM 20 come here, I could have said, 'Hey, let's go pick up a gun up
21 there. I got myself a gun.' I would have said that, man."

22 A. "Chucky: The guy has a premonition, and he won't go there
23 with that doggie."

24 Q. "But, dude, how are you thinking of doing it? With a
25 machete shooting him, or how the fuck?"

1 A. "Chucky: If there's a gun, then with a gun. Any way it
2 works out. The main thing is that he doesn't get out alive,
3 dog."

4 Q. "Make sure he doesn't remain."

5 A. "That guy, if we can grab his head, we'll cut it off,
6 dude. So that he won't talk, dude."

7 Q. "Uh-huh. Yes, because it's intense. I also wanted to see
8 what was going on with Roca, you know. So if Roca was going to
9 kill him, he must know perfectly well what's going on. What I
10 had thought was to have Roca call him out there, tell him that
11 he was going to be there, and then we would go pick him up
12 there and take him somewhere else."

13 A. "Chucky: The thing is that dude can't do that anymore. I
14 told you, he knows, that guy Pesadilla already knows."

15 Q. "You think he doesn't trust him anymore?"

16 A. "Chucky: He doesn't trust him anymore, and like I told
17 you, he was going to take him over there. The dude would have
18 died already, but he lost trust right away. He started hearing
19 that the guy was involved in some stuff, and he stopped going
20 out, dude. All we could do is keep watch at the girlfriend's
21 house."

22 Q. I'll have you end there, and I'm not sure if I read this
23 into the record. This was a transcript of excerpts of the
24 April 19, 2015 recording.

25 Can I have you turn to Exhibit 49, please. Can you

1 read into the record what date this transcript corresponds to.

2 A. What number?

3 Q. Just on top, 49, please.

4 A. Okay.

5 Q. This is the one that on top says "Transcript of excerpts
6 April 21, 2015 recording." Do you have it?

7 A. Yes, I do have it.

8 MR. PASRICHCHA: And before we read this
9 transcript, your Honor, may I show Exhibit 48? That's the
12:44PM 10 corresponding video to this recording.

11 THE COURT: Yes.

12 MR. PASRICHCHA: 48.1, please.

13 (Video played.)

14 Q. I'll just pause right there. Do you recognize the
15 individual in the back of the car?

16 A. Yes.

17 Q. Who's that?

18 A. Bryan Barillas, a/k/a Chucky.

19 MR. PASRICHCHA: Can I briefly play Exhibit 48.2,
12:45PM 20 please.

21 (Video played.)

22 Q. I'll just pause there, but is this the front seat
23 recording corresponding with the same time?

24 A. Yes.

25 Q. Turn to Exhibit 49, please, and I'll start at Page 3. Do

1 you see towards the top where CW-1 says, "But I don't know
2 what's up with Clacker"? Do you see that?

3 A. Yes.

4 Q. The same thing: I will read CW-1's part, and if you can
5 just read the other name and what they say.

6 "CW-1: But I don't know what's up with Clacker. Then
7 this guy came, and now he's upset. He knows they are trying to
8 slice him."

9 A. "Roca: That's what he told me, that the cops had arrived
12:47PM 10 at his house to tell him that they had intercepted a call and
11 that he was given an order to kill him."

12 Q. "So who do you think gave the order from above to kill
13 him?"

14 A. "Roca: Uh-huh, (Unintelligible) Violento spoke to
15 Tremendo. They're not going to talk about that just like
16 that."

17 Q. "No, but in code, to say to get him."

18 A. "Roca: Uh-huh, yes. It's also in a letter they sent from
19 over there. For sure, because this dude..."

12:47PM 20 Q. "And which of the dudes inside gave the..."

21 A. "Roca: Tremendo."

22 Q. "It was Tremendo?"

23 A. "Roca: Uh-huh."

24 Q. "But they must have read it, or maybe..."

25 A. "Roca: Uh-huh. But it doesn't name names. It just says

1 Enano there. But the cops since they're the authorities
2 probably can now."

3 Q. "Yes, they probably can now."

4 A. "Roca: Uh-huh, that's the situation. But the guy is
5 always at his house. Supposedly, if he goes there, he's going
6 to kill him, he says. Because the guy, he's very unsociable
7 now. Who knows what's going on?"

8 Q. "If we see him, we'll follow him. Maybe we can grab him."

9 A. "Chucky: That time over at Domingo's we were going to get
12:48PM 10 him with fuck.

11 "Roca: Those kids always come to the meeting.

12 "Chucky: So I went out, dude, just to call Seco, the
13 one was there because the guy still owes him a chain, and I
14 also called this dude. Man, when I got back, the dude wasn't
15 there anymore. That son of a bitch, I don't know if he left on
16 foot or what happened. I asked Domingo, 'So what happened to
17 Pesadilla?' I said, 'Oh, he went to shower, he'll be right
18 back.' Like fuck he was going to come back. He never came
19 back.

12:49PM 20 "Roca: Maybe he went to squeal to the cops. I don't
21 know why he told me that. Who knows if it was true."

22 Q. "It might be true. He trusts you a lot, man."

23 A. Roca: Yes, but now he's not answering my messages.

24 That's the problem, that he's not answering my messages.

25 Before, I used to call him, and now he won't even answer my

1 calls."

2 Q. "Because Villano says he's coming down to get him."

3 A. "Roca: Exactly, he says he's coming, but the thing is
4 that kid must be killed, because if he's like that, why would
5 he go out? He's not likely to come out. You guys already
6 tried to talk to him."

7 Q. "Well, he used to call me to give him a ride, and he
8 doesn't call me anymore."

9 A. "Roca: He doesn't call you?"

12:50PM 10 Q. "And I don't know what taxi driver he's calling, man."

11 A. "Chucky: I don't know, doggie. Maybe he's asking Domingo
12 to call him a cab, man.

13 "Roca: And the guy is still in Chelsea?

14 "Chucky: Yes.

15 "Roca: You guys have seen him there?"

16 Q. "I haven't seen him."

17 A. "Chucky: He lives at his aunt's, that's where he lives.

18 "Roca --"

19 Q. Okay, you can stop there. Just to move on to Page 6, do
12:50PM 20 you see the second-to-the-last thing Roca says starting with
21 "The favor, that's right"?

22 A. Yes.

23 Q. Can you continue on from there, please.

24 A. "Roca: The favor, that's right. Exactly, we're going to
25 kill him, the Side. This has been decided because of the

1 things that have been going on. There are many things
2 implicating him in events."

3 Q. "Exactly, man, but that's why I want to be in the know
4 because, fuck, I'm also in this too. But you guys are certain
5 that the son of a bitch snitched?"

6 A. "Roca: Yes. Tremendo said that there are even recordings
7 of his calls, recordings of his statements. That's the
8 situation. Everyone is screwed with him, even this dude
9 Cuervo.

12:51PM 10 "Chucky: Little too, dude, Little told me. Little
11 told me that this guy is ratting on Cuervo.

12 "Roca: Uh-huh.

13 "Chucky: And that kid said..."

14 Q. "Oh, well, then, man, that's what I wanted to hear, man,
15 that the dudes ordered this and that they have said that they
16 have..."

17 A. "Roca: Proof, exactly."

18 Q. "Proof, man, because otherwise things will go badly for
19 us."

12:51PM 20 A. "Roca: Exactly. That dude Tremendo did say that. The
21 dude was working with, was helping the cops, and the girl, and
22 there was also a girl there talking shit."

23 Q. "And who is the girl? Not the one that was dancing with
24 you?"

25 A. "Roca: Yes, that one."

1 Q. "And how can we bring her here?"

2 A. "Roca: That's what we were going to do, but she doesn't
3 talk to the guy, to Clacker anymore."

4 Q. "Both of them, man?"

5 A. "Roca: Let's say she would go and tell him, she would go
6 to his house to see him, and we'd kill both of them there, but
7 the girl, they don't talk to each other anymore.

8 "Chucky: They don't talk anymore, doggie?"

9 Q. "Are you sure, man?"

12:52PM 10 A. "Chucky: Yes.

11 "Roca: Because then, both would have been killed
12 there at the same time. That's how Villano wants to do it, but
13 the girl, I've been calling her twice, and she doesn't answer.
14 Because the girl is also pissed off about something that
15 Tremendo's wife said to her."

16 Q. "What did Tremendo's wife say to her?"

17 A. "Roca: Oh, man, she told her that she had incriminated
18 her husband, and then the girl called me, furious, but I said
19 to her that it was nothing. 'Don't pay attention to her. The
12:53PM 20 woman is Crazy,' I told her. But I keep calling and calling
21 her, and she doesn't answer my calls."

22 Q. "So, how do you guys plan to kill him? Fuck, what is the
23 technique you guys have in order not to lose? Because..."

24 A. "Roca: The plan is that we'd go out hunting, this dude is
25 going to attack. Because this dude plans to go to his house.

1 He'll be in a car, and from there, kill him."

2 Q. "I'm going to be in the car. He knows it, but if I keep
3 it dark, he won't..."

4 A. "Roca: And kill him there, because no one is going to
5 notice. He'll be walking along, as usual, and the dude will
6 attack him at once with a machete.

7 "Chucky: Yes.

8 "Roca: Right to the neck."

9 Q. "And not leave him alive?"

12:53PM 10 A. "Roca: And not leave him alive, because if he's left
11 alive, that's fucked.

12 "Chucky: If the dude strikes him once, the others
13 will attack too.

14 "Roca: Exactly."

15 Q. "And so, because you were telling me that you... I was
16 going to tell you, don't go showing up there with that beeper,
17 man."

18 A. "Roca: No, of course not. Fuck! Dude, they wanted me to
19 go, but if I were to go, I would lose."

12:54PM 20 Q. I'll have you stop there and turn to Page 12, please. At
21 the bottom of Page 12, just a couple of sentences. I'll start
22 with the last line.

23 "CW-1: Fuck, this man is going around snitching, bro.
24 He could give them all of our names, doggie."

25 A. "Chucky: That's why I'm thinking about it, doggie."

1 Q. "We're going to get him quickly, man. Because imagine!
2 If he's upset right now, he could..."

3 A. "Chucky: And he already gave him a name and that guy
4 already gave some aliases, this and that, and fuck, man.
5 Imagine. We have to concentrate on this and act more quickly."

6 Q. "You have to concentrate on it, man, because this guy
7 isn't..."

8 A. "Chucky: And the other Sides are going to beat us to it.
9 There's going to be a big problem. So, we have to concentrate
12:55PM 10 and act more quickly."

11 Q. Okay, we'll stop that recording right there.

12 Exhibit 54, please. This is a transcript of an
13 April 27, 2015 recording, and I'll start at Page 2. Are you
14 there, sir?

15 A. Yes. The top?

16 Q. Actually, why don't you start towards the middle where
17 Villano says "Exactly, exactly." Do you see that?

18 A. Yes.

19 "Villano: Exactly, exactly. Let them see me running,
12:56PM 20 but not see where I go, you know. Around here there's a little
21 town (Unintelligible), so what we need to do is, 'Chapin,
22 come...' We have to capture that son of a bitch straight away,
23 my brother, and tell him, "Look, we have this option, to take
24 you (Unintelligible) to the street (Unintelligible),' that son
25 of a bitch (Unintelligible). I know what I'm going to tell

1 him. I know what I'm going to do to him. To that son of a
2 bitch, right on the head, straight out. We're going to create
3 a fuss and let's go, brother! With a knife, it's the same as
4 with a gun, because it is in the street. There's a shit load
5 of people walking around, unless it was at dawn.

6 "Chucky: Yes.

7 "Villano: In my opinion, the attack would be better at
8 dawn."

9 Q. "So then in the morning, I think."

12:57PM 10 A. "Villano: It would be better early in the morning, if the
11 dude were to go out, than at night. Oh, son of a bitch, it was
12 the other one!"

13 Q. "That's what I keep telling this dude here, to plan well
14 how you are going to get him."

15 A. "Villano: Because listen, dog, if you don't plan how you
16 are going to do this thing when you're facing the loser right
17 there and you want to react, your mind is not going to react
18 the way it would if you had thought it through."

19 Q. "Planned?"

12:57PM 20 A. "Villano: What you are going to do, which way you are
21 getting out. And if that doesn't work out, brother, and you
22 have to improvise, so that it will work out for you in a hurry,
23 you understand? No..."

24 "Chucky: Yes.

25 "Villano: Because it's going to..."

1 Q. That should probably have been deleted out, but there's
2 some irrelevant conversation. What does CW-1 continue by
3 saying?

4 "So then, what are you going to do? How are you
5 planning to do this deed?"

6 A. "Chucky: Kill him straight away.

7 "Villano: Exactly the son of a bitch when we ask him
8 to talk, I know that what that guy is going to do is try to
9 squeal, but how is he going to squeal?"

12:58PM 10 Q. "Don't you think that he will run away from you, man?"

11 A. "Villano: That son of a bitch, how can he run faster than
12 me, brother? I will knock him down with just one shot right
13 there and then.

14 "Chucky: That's right.

15 "Villano: But that dude... They are not going to
16 give, they are not going to pay me for the gun until 11:00
17 o'clock at night."

18 Q. The transcript reflects that there's a minute of the
19 recording, and then continuing on, "So then, who's going to
12:59PM 20 shoot? This dude here or..."

21 A. "Villano: No, no, he's going to kill him dead, dude."

22 Q. "Huh?"

23 A. "Villano: He's going to kill him dead, dude. I'll be the
24 one shooting first, dude."

25 Q. "Alright."

1 A. "Villano: You're going to make sure, Chapin.

2 "Chucky: Yea."

3 Q. "And, uh, how the fuck are you planning to do it? With a
4 gun or with a..."

5 A. "Villano: No, man. I... If that guy can get me the gun,
6 I will just do it with one shot, dude, on the -- on the head,
7 and that's it."

8 Q. "Make sure, dude, you have to..."

9 A. "Villano: But I'm telling you that's why we are going
12:59PM 10 there, to make sure."

11 Q. Will you turn to the next page, please, Page 6, and start
12 with the very last line where Chucky says, "I wanted him to be
13 taken like this."

14 A. "(Unintelligible), I wanted him to be taken like this, in
15 a car, so as not to lose him. Kidnap the son of a bitch.

16 "Villano: That too, but I know that can't be over there
17 because of the people could see you. That could happen in the
18 situation where there were no people on the street, but even
19 then, it can't be done in the street because there are a lot of
01:00PM 20 cameras.

21 "Chucky: By the store?"

22 "Villano: It's possible to do the shooting there, but
23 you can't stay there very long because of the cameras, you
24 know, they watch you. That's the problem. (Unintelligible).
25 One has to see, doggie. Can't just go into any old corner.

1 "Chucky: That's right.

2 "Villano: Have to consider it with intelligence."

3 Q. "Yes, that's why I want to hear, you know, how you are
4 planning it."

5 A. "Villano: (Unintelligible) The thing is that
6 (Unintelligible).

7 "Chucky: That's right.

8 "Villano: It's better if I don't shoot him. It's
9 better if I don't shoot him because, fuck it, three homies.
01:01PM 10 Here, two homies besides me. So you guys have to watch that.
11 If the dead guy comes out and I don't do it, it's for a reason.
12 You guys have to be alert, brother, to see why I didn't do it
13 too, because if I didn't attack, it's for a reason. If he
14 finally came out and I didn't attack, it's for a reason. I'm
15 not going to jump in for us to lose. Fuck that. So everyone
16 there has to be alert that if he comes out and I didn't do it,
17 you have to see the reason so that you can explain it to the
18 homies because (Unintelligible) in the clique also.

19 "Chucky: Very strict.

01:01PM 20 Villano: Very strict. You can't just tell any old
21 story, any bullshit story."

22 Q. "And now that we are here, you know, fuck, I'm not from
23 your clique, but I also want to know what's up. Are you
24 certain that the dude, that he has (Unintelligible) to the
25 ground?"

1 A. "Villano: (Unintelligible) from the clique, we have the
2 go-ahead."

3 Q. "From down below, decisively?"

4 A. "Villano: From below."

5 Q. "Alright. You know, sometimes, down below, we've done one
6 or two things here, but we are a hundred percent sure, you
7 know. And you guys, I just want to know if you are certain."

8 A. "Villano: If anything happens, Villano did it from the
9 Enfermos."

01:02PM 10 Q. The next page. I'm sorry?

11 THE COURT: How much more of the transcript do you
12 have?

13 MR. PASRICHCHA: Maybe ten more minutes of this
14 transcript, your Honor.

15 THE COURT: Ten more minutes, I think we'd better
16 break off then.

17 MR. PASRICHCHA: Very well.

18 THE COURT: All right, ladies and gentlemen, in terms
19 of scheduling, I think the most likely scenario is that you're
01:02PM 20 going to get this case in the stub week before Thanksgiving.
21 In other words, it's going I think faster than everyone had
22 planned.

23 Let me ask you for a show of hands. We can sit on the
24 Wednesday before Thanksgiving, 9:00 to 1:00, or not. I don't
25 want to interfere with anyone's holiday plans. I know

1 Wednesday is a miserable travel day, and I just ask for a show
2 of hands. I said when we impaneled, I'd give you that choice.
3 Does anyone prefer not to sit on Wednesday?

4 Okay, we will take Wednesday off then, however this
5 plays out. So it may spill into the Monday after Thanksgiving,
6 either for your deliberations or possibly the trial, but that's
7 my best estimate of how this is going to proceed.

8 So in the meantime, thank you for your cooperation.
9 Please remember my instructions not to discuss the case among
01:03PM 10 yourselves or with anyone else, and not to read or listen to or
11 look at anything having to do with this case or the subject
12 matter of this case, and we'll see you tomorrow morning at 9:00
13 o'clock.

14 THE CLERK: All rise.

15 (Jury excused.)

16 (Adjourned, 1:04 p.m.)

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2 C E R T I F I C A T E

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UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

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8 We, Valerie A. O'Hara and Lee A. Marzilli, Official
9 Federal Court Reporters, do hereby certify that the foregoing
10 transcript was recorded by us stenographically at the time and
11 place aforesaid in Criminal No. 15-10338-FDS, United States of
12 America v. Rafael Leoner-Aguirre, and thereafter by us reduced
13 to typewriting and is a true and accurate record of the
14 proceedings.

15 Dated this 15th day of November, 2017.

16

17

18

19

20 /s/ Valerie A. O'Hara
21 /s/ Lee A. Marzilli

22

23 VALERIE A. O'HARA
24 LEE A. MARZILLI
25 OFFICIAL COURT REPORTERS